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U. S. Senate Comm. on Banking  
& Currency







# STOCK EXCHANGE PRACTICES

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## HEARINGS

BEFORE THE

## COMMITTEE ON BANKING AND CURRENCY UNITED STATES SENATE

SEVENTY-THIRD CONGRESS

SECOND SESSION

ON

### S.Res. 84

(72d CONGRESS)

A RESOLUTION TO INVESTIGATE PRACTICES OF STOCK  
EXCHANGES WITH RESPECT TO THE BUYING AND  
SELLING AND THE BORROWING AND LENDING  
OF LISTED SECURITIES

AND

### S.Res. 56 and S.Res. 97

(73d CONGRESS)

RESOLUTIONS TO INVESTIGATE THE MATTER OF BANKING  
OPERATIONS AND PRACTICES, TRANSACTIONS RELATING TO  
ANY SALE, EXCHANGE, PURCHASE, ACQUISITION, BORROW-  
ING, LENDING, FINANCING, ISSUING, DISTRIBUTING, OR  
OTHER DISPOSITION OF, OR DEALING IN, SECURITIES OR  
CREDIT BY ANY PERSON OR FIRM, PARTNERSHIP, COMPANY,  
ASSOCIATION, CORPORATION, OR OTHER ENTITY, WITH A  
VIEW TO RECOMMENDING NECESSARY LEGISLATION, UNDER  
THE TAXING POWER OR OTHER FEDERAL POWERS

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### PART 14

Alcohol Pools

FEBRUARY 21 TO FEBRUARY 26, 1934

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Printed for the use of the Committee on Banking and Currency



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1934



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U.S. Senate

COMMITTEE ON BANKING AND CURRENCY

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<sup>1</sup> Alternate, Thomas P. Gore, Oklahoma.

<sup>2</sup> Alternate, Phillips Lee Goldsborough, Maryland.

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## STOCK EXCHANGE PRACTICES

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WEDNESDAY, FEBRUARY 21, 1934

UNITED STATES SENATE,  
COMMITTEE ON BANKING AND CURRENCY,  
*Washington, D.C.*

The committee met at 10:30 a.m., pursuant to adjournment on yesterday, in room 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Barkley, Costigan, Adams, Townsend, Couzens, and Kean.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The committee will please come to order. Mr. Pecora, who will you have first this morning?

Mr. PECORA. Mr. Brown will resume the stand.

### TESTIMONY OF RUSSELL R. BROWN, CHAIRMAN OF THE BOARD, AMERICAN COMMERCIAL ALCOHOL CORPORATION, NEW YORK CITY—Resumed

Mr. PECORA. Mr. Brown, during the month of July 1933, was an application filed with the New York Stock Exchange by and on behalf of the American Commercial Alcohol Corporation for a third additional listing of its capital common stock?

Mr. BROWN. Yes, sir.

Mr. PECORA. Have you a copy of that application?

Mr. BROWN. No, sir.

Mr. PECORA. I show you what purports to be a printed copy thereof, which has been furnished to us by the New York Stock Exchange. Will you look at it and tell me if you can identify it as a true and correct copy of the application in question?

Mr. BROWN (after looking at the printed form). Yes, sir.

Mr. PECORA. Mr. Chairman, I offer it in evidence, but it need not be spread in full on the record of the committee's hearings.

The CHAIRMAN. Let it be admitted and appropriately marked.

(An application to the New York Stock Exchange for an additional listing of common stock by the American Commercial Alcohol Corporation, was marked "Committee Exhibit No. 62, Feb. 21, 1934," and will not be spread in full on the record but retained in the files of the committee.)

Mr. PECORA. Mr. Brown, the listing application just referred to has been received in evidence as committee exhibit no. 62 of this date. I want to read into the record the following extracts therefrom, under the caption:

## AUTHORITY FOR AND PURPOSE OF ISSUE

The company proposes to issue, upon due authority of the board of directors, up to 25,000 shares of its common stock, on account of the purchase of assets for which it is now negotiating and which may be acquired in the near future, upon official notice of issuance and payment in full, with the statement of the application of the proceeds for the property acquired.

The shares which it is proposed to issue will be registered with the Federal Trade Commission in compliance with the provisions of the Securities Act of 1933.

And under the caption "Opinion of Counsel", the following statement is contained in this application:

The legal details in connection with the said issue are subject to the approval of Messrs. Larkin, Rathbone & Perry, No. 70 Broadway, New York City, who are of the opinion that by reason of the authority provided in the certificate of incorporation of said corporation, and upon due authority of the board of directors, said shares of stock may be issued in the absence of fraud, and in the transaction of the purposes specified above, and for such consideration as may be fixed by the board of directors; and when so issued will be lawfully issued, and will be fully paid and nonassessable, and valid in the hands of holders thereof, and will not be liable to any further call or assessment.

The application itself is dated July 19, 1933, and is for an additional listing of 25,000 shares of the common stock, of \$20 par value, of the American Commercial Alcohol Corporation. It sets forth that the total amount of common stock authorized to be issued by the company is 375,000 shares under its charter; that there were previously authorized to be issued, or rather to be listed, 262,761 shares, of which there were outstanding on July 18, 1933, 260,715 shares, and that the total applied for, that is, for listing, is 287,761 shares; and that this application was authorized by the executive committee of the American Commercial Alcohol Corporation on July 19, 1933. The application is signed in behalf of the American Commercial Alcohol Corporation by Cecil Page as secretary thereof. The exhibit, constituting a copy of said application, contains the following:

This committee recommends that the above-mentioned 25,000 shares of common stock, of \$20 par value, be added to the list, after final notice of issuance and payment in full with statement of application of proceeds or property acquired, in accordance with the terms of this application, making the total amount authorized to be listed 287,761 shares.

That is signed by Frank Altschul, chairman, and J. M. B. Hoxsey, executive assistant to the committee on stock list. It also shows it was adopted by the governing committee on July 26, 1933, being signed by Ashbel Green, secretary. That which I have last read refers, of course, to the committee on stock list of the New York Stock Exchange, and to the governing committee of the New York Stock Exchange.

Now, Mr. Brown, has any of the stock covered by this application, namely, 25,000 additional shares, ever been issued?

Mr. BROWN. No, sir.

Mr. PECORA. Why not?

Mr. BROWN. Well, because there were so many delays on the part of the lawyers in the handling of the transaction, that the company was put in a position in the meantime where it handled it by cash; because of the improvement in the business situation it was enabled to handle it by cash.



Mr. PECORA. Well, the purpose of the issue, according to the statement in the application, was to purchase certain assets.

Mr. BROWN. Yes, sir.

Mr. PECORA. That is, to enable your corporation, the American Commercial Alcohol Corporation, to purchase assets?

Mr. BROWN. That is correct.

Mr. PECORA. I notice that the assets are not in any way designated or referred to except in the manner in which I have read it in this application. Now, Mr. Brown, what were the assets to be purchased through the medium of this proposed additional issue of 25,000 shares?

Mr. BROWN. We had two transactions in mind at that time. One of them was the acquisition of a distillery at Louisville, Ky.; and the other one was the Spirits Corporation, which was organized and acquired, or was organized to acquire and did acquire the Sid Klein Corporation.

Mr. PECORA. Did you say the Sid Klein Corporation?

Mr. BROWN. Yes, sir.

Mr. PECORA. Now, was there a Sid Klein Corporation in existence on the date of this application, namely, July 19, 1933?

Mr. BROWN. I haven't the date here of the organization of the Sid Klein Corporation.

Mr. PECORA. I did not hear you.

Mr. BROWN. I say, I haven't here with my data the date of the organization of the Sid Klein Corporation.

Mr. PECORA. Well, was the Spirits Corporation that you have mentioned in existence on the 19th of July 1933?

Mr. BROWN. No. That was organized on July 29, 1933, and by charter amendment the name was changed to the American Distilling Co. on August 11, 1933.

Mr. PECORA. Who caused the Spirits Corporation to be organized?

Mr. BROWN. We did.

Mr. PECORA. That is, you mean the American Commercial Alcohol Corporation?

Mr. BROWN. Yes, sir.

Mr. PECORA. And was the Sid Klein Corporation eventually organized, either prior to or subsequent to July 19, 1933?

Mr. BROWN. Yes, sir.

Mr. PECORA. And who caused that corporation to be organized?

Mr. BROWN. Mr. Sid Klein.

Mr. PECORA. Was Mr. Sid Klein in any way connected at the time with the American Commercial Alcohol Corporation?

Mr. BROWN. No, sir.

Mr. PECORA. I want to read to you the following extracts from the minute book of the board of directors of the American Commercial Alcohol Corporation, which minute book has been marked for identification as "Committee Exhibit No. 14 on February 13, 1934." I will read from the minutes of the board of directors of a meeting held on July 27, 1933.

There were present at the meetings: Messrs. Atkins, Atwood, Chadbourne, Colby, Foster, Grimm, Kessler, Kies, Page, Paine, Publicker, and Runk, being a majority and a quorum of the board.

The chairman, Mr. Brown, presided, and Mr. Page acted as secretary of the meeting.

Now I quote from the minutes:

The chairman explained in brief to the Board the negotiations pending in connection with which the Executive Committee had tentatively authorized the issuance of up to 25,000 shares of the Corporation's common stock, as stated in the minutes of the committee, and as to which a listing application had been made to the New York Stock Exchange, and approved it.

On motion duly made, seconded, and unanimously passed, it was resolved: That the action of the Executive Committee, as stated in the minutes of its meeting held July 19, 1933, authorizing the issuance of 25,000 shares of the Corporation's common stock, of the par value of \$20 per share, and the application for listing thereof on the New York Stock Exchange, be and the same hereby is ratified and approved.

Resolved that application for registering the proposed issue of 25,000 shares of the Corporation's common stock, of the par value of \$20 per share, under the Securities Act, be made; and that the proper officers of the Corporation be and they hereby are authorized to do whatever may be necessary or proper, under the advice of counsel, to obtain such registration and authority for the issuance of said stock.

Now, that portion of the minutes which I have just read to you, Mr. Brown, relates to the listing applications which has been marked in evidence here this morning as Committee Exhibit No. 62, does it not?

Mr. BROWN. Yes, sir.

Mr. PECORA. So that at the meeting of the board of directors of your corporation held on July 27 last, apparently you reported to the board that arrangements had been completed for the issuance of this block of additional shares, and that application for the listing of such additional shares had been already made to the New York Stock Exchange, isn't that so?

Mr. BROWN. Well, that is the way that reads, but I do not quite understand it, Mr. Pecora.

Mr. PECORA. What was that answer? I could not hear you.

Mr. BROWN. I do not quite follow that which you have read. If you will hand me the minute book for a minute I will see.

Mr. PECORA. All right. Here it is.

Mr. BROWN (after looking at the minute book). What is the question now?

Mr. PECORA. The committee reporter will read it to you.

(Thereupon the committee reporter read the following question:)

Mr. PECORA. So at the meeting of the board of directors of your corporation held on July 27, last, apparently you reported to the board that arrangements had been completed for the issuance of this block of additional shares, and that application for the listing of such additional shares had been already made to the New York Stock Exchange, isn't that so?

Mr. BROWN. I do not so interpret that. As I read that, I explained to the board the progress of the negotiations in connection with the Sid Klein situation, and the distillery matter, because the deals, I believe, had not been concluded at that time.

Mr. PECORA. What do you mean by the Sid Klein situation?

Mr. BROWN. The Sid Klein Corporation, which was being acquired through the Spirits Corporation.

Mr. PECORA. The Sid Klein Corporation was being acquired through the Spirits Corporation?

Mr. BROWN. Yes, sir.

Mr. PECORA. The Sid Klein Corporation had not yet been formed, as I understand.

Mr. BROWN. I have no date of organization, but it was all at about that time. Yes; I have it here. It was incorporated on August 3, 1933, as the Sid Klein Corporation.

Mr. PECORA. When was the Spirits Corporation formed?

Mr. BROWN. On July 29, 1933.

Mr. PECORA. Now, was the name of the Spirits Corporation thereafter changed to some other corporate name?

Mr. BROWN. Yes. It was changed to American Distilling Co., on August 11, 1933.

Mr. PECORA. And is it today known as the American Distilling Co.?

Mr. BROWN. Yes, sir.

Mr. PECORA. Now, Mr. Brown, at the same meeting of the board of directors of your corporation, held on July 27 last, the following action was taken or proceedings were had as appear from the minutes of that meeting, extracts of which I will read to you from your minute book:

The chairman thereupon reported to the board that tentative arrangements had been made with Mr. Sid Klein for the organization of a corporation to carry on the business of selling whisky and other spirituous liquors on a commission or brokerage basis whenever it could lawfully be done, but stated that the plan, as discussed, contemplated this company furnishing some \$200,000 in capital in exchange for which it would receive preferred stock and 10 percent of the authorized common stock of the proposed corporation.

After discussion, on motion by Mr. Kies, seconded by Mr. Grimm, and unanimously passed, it was resolved: That the board approve in principle the participation of this corporation in the proposed business of Mr. Klein, and referred the matter to the executive committee to work out the details thereof and report back its recommendations with respect thereto for the approval of the board.

Do you recall that action having been taken?

Mr. BROWN. Yes, sir. That transaction was afterwards changed. I think it was changed in the executive committee, and that we now have \$200,000 of the preferred stock, which is all of the preferred stock outstanding, and that we have 50 percent of the original common stock.

Mr. PECORA. That is, of the Sid Klein Corporation?

Mr. BROWN. Yes, sir. And that corporation, of course, is functioning today.

Mr. PECORA. Now, Mr. Brown, at the meeting of the board of directors of your company held on August 8, 1933, it appears from the minutes of that meeting, portions of which I will read to you from your minute book, that the following proceedings were had and action taken:

Present at the meeting: Messrs. Atkins, Chadbourne, Colby, Foster, Kessler, Grimm, Pond, Page, and Publicker, being a majority and a quorum of the board.

The chairman, Mr. Brown, presided, and Mr. Page acted as secretary of the meeting.

The chairman stated that Mr. Sid Klein had caused to be organized under the laws of the State of Maryland, the Sid Klein Corporation, with an authorized capital consisting of 5,000 shares of 7 percent noncumulative nonvoting



preferred stock of the par value of \$100 per share, and 5,000 shares of common voting stock of the par value of \$1 per share, and had contracted with that corporation for the issuance to him of all the common stock thereof.

That Mr. Klein had also caused to be organized the Spirits Corporation, under the laws of Maryland, with a total authorized capital issue of 10,000 shares of no par common stock; that the Spirits Corporation had made and contracted with Mr. Klein for the purchase of 2,000 shares of the preferred stock of the Sid Klein Corporation for \$200,000, payable on delivery of said preferred stock, and had made an agreement with Mr. Klein whereby Mr. Klein would transfer to it 2,500 shares of the Klein Company common stock.

The chairman also reported that the Spirits Corporation had issued of its authorized stock 10,000 shares to Mr. Knox B. Phagan for the consideration received by that corporation to Mr. Knox B. Phagan, being valued by the Spirits Corporation's Board of Directors at \$465,000.

The chairman also stated that Mr. Klein had also agreed with the Spirits Corporation to cause the Sid Klein Corporation to pay dividends on the preferred stock, when and as earned; and furthermore when the Sid Klein Corporation had accumulated a net earned surplus of \$50,000, after payment of dividends on the preferred stock, to cause the Sid Klein Corporation to retire the said preferred stock at such time or times, and in such amounts, and upon such conditions as may be determined by a majority of the committee, one member of which would be named by the Sid Klein Corporation and two members by the Spirits Corporation.

There was then presented to the meeting a proposal signed by Mr. Knox B. Phagan, dated August 8, 1933, whereby the said Knox B. Phagan offered to exchange 10,000 shares of the no par common stock of the Spirits Corporation for 10,000 shares of the \$20 par value common stock of the American Commercial Alcohol Corporation. A copy of said proposal, marked Exhibit A, was ordered attached to and made a part of these minutes.

After discussion, on motion duly made, seconded, and unanimously passed by the affirmative vote of all the directors present, it was resolved: That this Corporation hereby approves and accepts the proposal of Mr. Knox B. Phagan, as set forth in his letter dated August 8, 1933, addressed to this Corporation by him and submitted to this meeting as aforesaid; and that the officers of this Corporation be and they are hereby empowered, authorized and directed to execute formal exchanges of such proposal as provided herein, in the name and on behalf of this Corporation, with the corporate seal affixed, and to deliver a duplicate original so executed to Mr. Knox B. Phagan.

On motion duly made, seconded, and unanimously passed by the affirmative vote of all of the directors present, it was resolved: That this Company acquire from Mr. Knox B. Phagan 10,000 shares of the no par common stock of the Spirits Corporation, a Maryland corporation, in consideration of the delivery by this company to Mr. Knox B. Phagan of 10,000 shares of the common stock of the par value of \$20 per share of this Company.

Further resolved that upon the assignment and transfer to this company by Mr. Knox B. Phagan of said 10,000 shares of the no par stock of the Spirits Corporation, the proper officials of this Company be and they are hereby authorized, either

(a) To issue, execute and deliver to or upon the order of Mr. Phagan, a certificate or certificates representing 10,000 shares of the common stock of a par value of \$20 per share, of this Company, or

(b) To borrow from such source and on such terms as said officers of this Corporation, under the advice of counsel, may deem proper, 10,000 shares of the \$20 per share par value of the stock of this Company, and to assign and transfer said 10,000 shares of said common stock, when so borrowed, to or upon the order of Mr. Phagan; and thereafter at such times as said officers may be advised by counsel is advisable, to execute and deliver 10,000 shares of the common stock of the par value of \$20 per share of this company, to or upon the order of the firm, person, or corporation from whom or which the said stock shall be so borrowed.

Further resolved, that in the judgment of the directors of this Company the actual value of said 10,000 shares of the common no par stock of the Spirits Corporation is not less than \$465,000.

Now, Mr. Brown, there are other portions of the resolution which follow but which it is unnecessary to read at this time. However,

I want to ask you this question: Who were the officers and directors of the Sid Klein Corporation at the time this matter was presented to the board of directors of your corporation, on August 8, 1933?

Mr. BROWN. Sid Klein was president; Rose C. Markey was secretary.

Mr. PECORA. What was that last?

Mr. BROWN. Rose C. Markey was secretary. The directors were: Sid Klein, William A. Bandler, Jesse E. Priest, and Strawbridge Foster.

Mr. PECORA. Who were the officers and directors of the Spirits Corporation at the same time?

Mr. BROWN. I will have to get that for you.

Mr. PECORA. According to what purports to be the minute book of the Spirits Corporation, the board of directors of that corporation on August 7, 1933, were Messrs. Capdevielle, Beebe, and Brown. Who was the latter?

Mr. BROWN. Well, that is not I. It was T. F. Brown.

Mr. PECORA. What Brown is that?

Mr. BROWN. I say, he is not a relative of mine. He was the cashier of the American Commercial Alcohol Corporation.

Mr. PECORA. Well, was he the nominee of the American Commercial Alcohol Corporation?

Mr. BROWN. No, sir.

Mr. PECORA. Who is Mr. Beebe?

Mr. BROWN. He is the auditor of the American Commercial Alcohol Corporation.

Mr. PECORA. What did you say he was?

Mr. BROWN. The auditor of the American Commercial Alcohol Corporation.

Mr. PECORA. And Capdevielle is this molasses broker who, according to your testimony given last week, was your dummy in connection with the organization of Noxon, Inc.?

Mr. BROWN. Yes, sir.

Mr. PECORA. Was he also your dummy in this transaction?

Mr. BROWN. No, sir.

Mr. PECORA. For whom did Mr. Capdevielle act?

Mr. BROWN. He acted for Phagan.

Mr. PECORA. For Knox B. Phagan?

Mr. BROWN. Yes, sir.

Mr. PECORA. Well, Phagan was your dummy according to your testimony of last week in the proceedings attendant upon the organization of Maister Laboratories, Inc.

Mr. BROWN. That is correct. And I asked him to follow this one out, too.

Mr. PECORA. Was Phagan, whose interest in this transaction appears from the extract I have read to you from the minutes of the meeting of your board of directors held on August 8, 1933, also your dummy in connection with the Spirits Corporation?

Mr. BROWN. I asked him to do it.

Mr. PECORA. Now, do you know what assets the Spirits Corporation had on the 8th of August 1933, when, according to the minutes of the meeting of your board of directors held on that date, your board expressed its judgment that the actual value of the 10,000



shares of common stock of the Spirits Corporation was not less than \$465,000?

Mr. BROWN. I had taken Mr. Phagan's note for \$465,000.

Mr. PECORA. And that was its only asset?

Mr. BROWN. Yes, sir.

Mr. PECORA. This promissory note of Mr. Phagan's?

Mr. BROWN. Yes, sir.

Mr. PECORA. And that was a note that he gave to the company—that is, to the Spirits Corporation—in return for its 10,000 shares of common capital stock?

Mr. BROWN. That is correct.

Mr. PECORA. Was that note secured?

Mr. BROWN. No, sir.

Mr. PECORA. Was it endorsed by any person of known financial responsibility?

Mr. BROWN. Not that I remember of; no, sir.

Mr. PECORA. Did you have any knowledge of Mr. Phagan's financial work other than that which you said last week you had?

Mr. BROWN. No, sir.

Mr. PECORA. And that was not a knowledge that indicated to you he was worth the amount of that note, namely, \$465,000, was it?

Mr. BROWN. I was confident he would pay the note.

Mr. PECORA. The question is not whether you were confident he would pay the note but did you have any knowledge of his financial responsibility that led you to believe he was worth \$465,000?

Mr. BROWN. No, sir.

Mr. PECORA. Now, what investigation was made by the board of directors of your corporation—that is, the American Commercial Alcohol Corporation—so far as you know, that led that board to declare its judgment in this resolution I have read to you that the assets of the Spirits Corporation on August 8 last were worth not less than \$465,000?

Mr. BROWN. None other than what I indicated to them, I suppose.

Mr. PECORA. You say none other than what you indicated to them?

Mr. BROWN. Yes, sir.

Mr. PECORA. What had you indicated to them?

Mr. BROWN. I indicated to them that I was confident the note would be paid.

Mr. PECORA. It was simply a belief on your part that Phagan's note would be paid?

Mr. BROWN. That is correct.

Mr. PECORA. And that belief was not supported by any knowledge you had of Phagan's financial worth?

Mr. BROWN. No, sir.

Mr. PECORA. And was it upon that basis that the board of directors expressed its judgment that the assets of the Spirits Corporation were worth not less than \$465,000 on August 8 last?

Mr. BROWN. It was also based on the judgment that the Sid Klein Corporation, which the Spirits Corporation would acquire, would have very substantial earnings, and it is evidence by the fact that the earnings have been substantial.

Mr. PECORA. You said it was based further on the feeling that the assets which the Spirits Corporation were to acquire from the Sid Klein Corporation?

Mr. BROWN. Yes, sir; the acquisition of the Sid Klein Corporation, and its ownership by the Spirits Corporation, would prove a profitable venture.

Mr. PECORA. What assets did the Sid Klein Corporation have on August 8 last?

Mr. BROWN. Well, it had a contract, as I remember it, with Mr. Sid Klein, who was probably one of the most outstanding figures in the whisky business, and who——

Mr. PECORA (interposing). A contract of what kind?

Mr. BROWN. A contract of employment by which all of his services were to be given to the Sid Klein Corporation, and he was also——

Mr. PECORA (interposing). In other words, there was a person by the name of Sid Klein who caused the Sid Klein Corporation to be organized.

Mr. BROWN. That is correct.

Mr. PECORA. And that same Sid Klein was to devote all of his time and services to the Sid Klein Corporation?

Mr. BROWN. Yes, sir.

Mr. PECORA. And you considered that that promise made by Sid Klein to the Sid Klein Corporation was an asset which, when acquired by the Spirits Corporation through its acquisition of the stock of the Sid Klein Corporation, would help to give a value of at least \$465,000 to the assets of the Spirits Corporation?

Mr. BROWN. Yes, sir. And I took the note.

Mr. PECORA. What kind of services was this Sid Klein to render that made his services so extremely valuable?

Mr. BROWN. Well, because at that time it was apparent, or at least we felt that prohibition repeal would come along. Mr. Klein was probably one of the outstanding figures in the beverage liquor business. He had been in it all of his life, up to the time of the passage of the prohibition amendment. He was known from coast to coast.

Mr. PECORA. As being what?

Mr. BROWN. As being a whisky merchant.

Mr. PECORA. As being a whisky merchant?

Mr. BROWN. Yes, sir.

Mr. PECORA. Well, he may have been known from coast to coast, but frankly I never heard of him before.

Mr. BROWN. Well, you were not in the whisky business.

Mr. PECORA. Oh. He was only known to those in the whisky business, is that right?

Mr. BROWN. That is right.

Mr. PECORA. Well, during prohibition days were there so many persons engaged in the whisky business in this country?

Mr. BROWN. I don't know.

Mr. PECORA. That made Mr. Sid Klein's reputation an outstanding one?

Mr. BROWN. Mr. Klein formerly was a whisky broker in Cincinnati, where his headquarters were located. He came East and was connected with the Kentucky Alcohol Corporation, and afterwards became an official of the United States Industrial Alcohol Corporation—and this was all during prohibition times, when he was in the industrial alcohol business. Then when he felt that prohibition re-

peal was going to be made effective he retired from the United States Industrial Alcohol Co., as I understand it, and decided to set himself up in the business of handling warehouse receipts, buying and selling whiskies and other beverage liquors for his own account, and also to act as an importer, all of which he is doing today under the name of the Sid Klein Corporation.

Mr. PECORA. Well, what proportion of this valuation of "at least" \$465,000 that you thought the assets of the Spirits Corporation were worth on August 8 last, represented the value you placed upon the contract for the exclusive services of Mr. Sid Klein?

Mr. BROWN. Well, that I do not think was decided upon at the time. Everything taken together was assumed to be of that value.

Mr. PECORA. Well, the only tangible asset was this promissory note of Mr. Knox B. Phagan, wasn't it?

Mr. BROWN. Yes, sir.

Mr. PECORA. Now, was there in existence on August 8 any contract between Mr. Sid Klein and the Spirits Corporation?

Mr. BROWN. As to that, I cannot tell you offhand. I do not believe so, no, sir; not anything reduced to writing. I think the negotiations, as I remember now, with Mr. Klein were started at Atlantic City by Mr. Publicker on the Fourth of July. I remember that it was on a holiday, and it was afterwards brought up.

Mr. PECORA. Now, what was to be the business of the Sid Klein Corporation?

Mr. BROWN. Dealing in whiskies, beverage liquors, importing alcoholic beverages, dealing in warehouse receipts, and so forth.

Mr. PECORA. In the main it was to engage in the business of selling alcohol and alcoholic products, is that it?

Mr. BROWN. No. Alcoholic beverages.

Mr. PECORA. Alcoholic beverages, is that right?

Mr. BROWN. That is correct.

Mr. PECORA. What was to be the business, or what was the business of the Spirits Corporation?

Mr. BROWN. At the time when it was organized it was believed that, perhaps, the Spirits Corporation might handle the beverage business of the American Commercial Alcohol Corporation.

Mr. PECORA. Do you mean act as a sort of selling agent?

Mr. BROWN. No. To handle the whole beverage end of the business, in connection with the production, sale, and distribution of beverage liquors, it being considered quite inadvisable to put on a bottle of whisky which might be produced, the name of the American Commercial Alcohol Corporation. It was felt that an outside or a separate and distinct operation was needed to conduct the beverage business.

Mr. PECORA. Well, now, you recognize, don't you, Mr. Brown, that the steps taken in connection with the formation of the Sid Klein Corporation and of the Spirits Corporation, and the arrangements for the acquisition by the Spirits Corporation of all the capital stock, or a major part of the capital stock, of the Sid Klein Corporation, and then in turn the acquisition by the American Commercial Alcohol Corporation of the capital stock of the Spirits Corporation through an exchange of shares, paralleled very considerably what was done by the American Commercial Alcohol



Corporation as testified to by you last week before this committee in connection with the formation of the Maister Laboratories, Inc., and Noxon, Inc.?

Mr. BROWN. That is correct. The reason that was handled in the way it was, was because of Mr. Klein's insistence that it be handled in that way; not direct acquisition by the American Commercial Alcohol Corporation, because he felt at the time it would be better if our interests and control of the situation was not disclosed generally, for the reason that he would do business with all the different whisky purchasers, buying and selling where he could make a profit.

Mr. PECORA. What position was Mr. Klein in to dictate to the American Commercial Alcohol Corporation how the latter corporation should conduct its business, and how it should issue its capital stock?

Mr. BROWN. Well, I wouldn't say that he dictated to the American Commercial Alcohol Corporation. But I think we felt at the time it was quite correct, because of the feeling that it would be better for him to appear as an independent operator.

Mr. PECORA. Now, as a matter of fact, Mr. Brown, wasn't this plan which involved the creation of the Sid Klein Corporation and of the Spirits Corporation, and which involved further the acquisition and control of the Sid Klein Corporation by the Spirits Corporation, and the acquisition of the Spirits Corporation by the American Commercial Alcohol Corporation through an exchange of stock, conceived solely for the purpose of enabling the American Commercial Alcohol Corporation to make another issue of an additional block of its common stock without first offering that stock to its stockholders of record under their preemptive rights?

Mr. BROWN. I shouldn't say so.

The CHAIRMAN. What was the capital stock of the Sid Klein Corporation?

Mr. BROWN. It had 5,000 shares of \$100 par value noncumulative 7 percent nonvoting preferred stock, and 5,000 shares of \$1 par value common stock. Of the preferred stock, 2,000 shares had been issued, and all of the common. And the earnings of that corporation for the last 2 months of the year, I think, were approximately \$40,000, and the earnings for the month of January Mr. Klein advises me were approximately \$20,000.

The CHAIRMAN. How much of that stock did the American Commercial Alcohol Corporation acquire?

Mr. BROWN. We acquired all of the preferred stock, and 50 percent of the common stock.

Mr. PECORA. Now, Mr. Brown, in the application which was filed with the New York Stock Exchange on July 19, last, for the listing of these additional 25,000 shares of stock of your company, why wasn't there set forth in detail the assets which were to be purchased through the proposed issue of 25,000 additional shares?

Mr. BROWN. As to that I don't know. I had nothing to do with the application.

Mr. PECORA. Who did have to do with the application?

Mr. BROWN. I assume it was prepared by Mr. Page.

Mr. PECORA. Did Mr. Page know more about the situation than you did?

Mr. BROWN. No, sir.

Mr. PECORA. You said something before about the acquisition of a plant in Kentucky by the Spirits Corporation.

Mr. BROWN. No; by the American Commercial Alcohol Corporation.

Mr. PECORA. Was it by the American Commercial Alcohol Corporation?

Mr. BROWN. Yes, sir.

Mr. PECORA. Well, how did the acquisition of that plant figure in this transaction?

Mr. BROWN. It did not figure in it at all.

Mr. PECORA. I mean with the Spirits Corporation and the Sid Klein Corporation.

Mr. BROWN. Not at all.

Mr. PECORA. Why did you make reference to it, then?

Mr. BROWN. You asked me about the application for the issuance of 25,000 additional shares of stock.

Mr. PECORA. Was it contemplated then that among the assets to be acquired by the American Commercial Alcohol Corporation at the time it made this application to the New York Stock Exchange for this additional listing of 25,000 shares, was this Kentucky plant?

Mr. BROWN. It was contemplated; yes, sir.

Mr. PECORA. Did that offer pass beyond the stage of contemplation, or that effort, I mean?

Mr. BROWN. Oh, yes. There were considerable discussions, a complete inspection of the properties, and we were unable to arrive at a definite deal. We thought we had something that was possible, but finally they wanted too much money for the company.

Mr. PECORA. Well, nevertheless, at the time this application was filed with the New York Stock Exchange one of the purposes for which the additional listing of stock was sought was to enable your corporation to acquire this Kentucky plant?

Mr. BROWN. Yes, sir.

Mr. PECORA. Through the issuance of part or all of those additional 25,000 shares.

Mr. BROWN. Yes, sir.

Mr. PECORA. And that plan completely went by the board afterwards?

Mr. BROWN. Yes, sir.

Mr. PECORA. When was it finally abandoned?

Mr. BROWN. Well, I cannot give you the date of that.

Mr. PECORA. Well, about when?

Mr. BROWN. Well, it was some time after that application was filed.

Mr. PECORA. This application was filed on July 19.

Mr. BROWN. Correct.

Mr. PECORA. Was that plan completely abandoned within a month thereafter?

Mr. BROWN. I should say so; yes, sir.

Mr. PECORA. Now, I show you what purports to be a final signed copy of supplemental data or statement filed by or on behalf of the American Commercial Alcohol Corporation, with the committee on stock list of the New York Stock Exchange, bearing date Novem-

ber 23, 1933, and bearing the signature of Cecil Page, as secretary of the American Commercial Alcohol Corporation. Will you look at it and tell me if you recognize it to be the supplemental statement filed by and on behalf of your corporation last November with the stock list committee of the New York Stock Exchange?

Mr. BROWN (looking at the paper). Yes, sir.

Mr. PECORA. Mr. Chairman, I wish to offer it in evidence.

The CHAIRMAN. Let it be admitted.

(A paper marked "Supplemental" application of the American Alcohol Corporation, dated Nov. 23, 1933, to the committee on stock list of the New York Stock Exchange, was marked "Committee Exhibit No. 63, February 21, 1934", and will not be made a part of the record except as read by Mr. Pecora, but will be kept in the files of the committee.)

Mr. PECORA. Now, Mr. Brown, what was the purpose of the filing of this supplemental statement with the stock list committee of the New York Stock Exchange?

Mr. BROWN. I never knew that the thing had been filed. I was away, apparently, at the time it was filed. And it never should have been filed.

Mr. PECORA. So, apparently, at the time it was filed it should never been filed, you say?

Mr. BROWN. That is correct.

Mr. PECORA. Well, Mr. Cecil Page, the secretary of the corporation, is not only the secretary but also a lawyer, isn't he?

Mr. BROWN. That is correct.

Mr. PECORA. When did you learn that it had been filed?

Mr. BROWN. Just the other day.

Mr. PECORA. Only the other day?

Mr. BROWN. Yes. You see, so that you will understand my statement there: If you had been in the whisky business in November, December, January, and February, there was a great deal of confusion. At the time when that was done I was at the Pekin plant supervising construction for production, because it was before Mr. Grimm went away—and he had a breakdown and had to go away the first part of November—and we had agreed with Klein to clear up the entire transaction by a cash payment, and agreed that this issuance of 10,000 shares, because of the substantial earnings of the company at that time and the prospective substantial earnings, it was unnecessary and we did not want to issue any more stock than we absolutely had to; and that was the time the deal was called off. That paper apparently went through as a routine matter in Mr. Page's office, and I knew nothing about it, because, as I understand it, no notice of issuance of the stock has ever been sent to the Exchange.

Mr. PECORA. Now, I want to read a statement from this supplemental statement filed with the committee on stock list of the New York Stock Exchange:

In its application A-10117, dated July 19, 1933, American Commercial Alcohol Corporation made application for the listing on the New York Stock Exchange of 25,000 additional shares of common stock of the par value of \$20 per share, on official notice of issuance thereof, and payment in full, with a statement of application of proceeds or property acquired. It was stated in said application that the shares proposed to be issued would be registered



with the Federal Trade Commission, in compliance with the provisions of the Securities Act of 1933.

Since the date of said application, arrangements have been made for the issuance of 10,000 of said 25,000 additional shares to Mr. Knox B. Phagan, in exchange for the entire capital stock, being 10,000 shares of common stock without par value, of the American Distilling Company (a Maryland Corporation, formerly known as the Spirits Corporation). Honorable Angus W. McLean and Sanders, Childs, Bobb, and Westcott, Esquires, of Washington, D.C., after conference with members of the Securities Division of the Federal Trade Commission, have submitted an opinion to the effect that the issue by American Commercial Alcohol Corporation of said 10,000 shares is not required by the provisions of the Securities Act of 1933 to be registered with the Federal Trade Commission.

The American Distilling Company was organized on July 29, 1933, and has acquired certain valuable formulae, processes, and so forth, for the manufacture of beverage spirits; also a lease on a completely equipped distillery property located at Pekin, Illinois. Also sales contracts with and interests in certain distributing companies organized for the purpose of the distribution of beverage spirits. Since July 29, 1933, the American Distilling Company has been in operation and the balance sheet and profit and loss statement annexed, certified to by Guy I. Colby, Treasurer, exhibits its condition as at October 31, 1933, and states the results of its operations July 29th through October 31, 1933.

I hereby certify that the following consolidated condensed general balance sheet and statement of profit and loss, in my opinion, correctly reflects the financial status of the American Distilling Company as at October 31, 1933, and the result of its operation for the period July 29th through October 31st.

GUY I. COLBY.

Then follows the consolidated condensed balance sheet statement, and the profit and loss statement, signed:

AMERICAN COMMERCIAL ALCOHOL CORPORATION,  
By CECIL PAGE, *Secretary*.

Then it shows that it was submitted to the governing committee for information December 13, 1933, Ashbel Green, secretary. That is, he is the secretary of the New York Stock Exchange. Now, Mr. Brown, are you familiar with the balance sheet of the American Distilling Co. set forth in this supplemental statement?

Mr. BROWN (after looking at the paper). I am; yes, sir.

Mr. PECORA. Among the assets shown in this balance sheet is an item of "Notes receivable, \$465,000." That refers to Phagan's promissory note, doesn't it?

Mr. BROWN. Yes, sir.

Mr. PECORA. Has that ever been paid?

Mr. BROWN. We were to have had a meeting on the 15th of February. I think the lawyers had completed all the legal mechanics to clear up the details, but the meeting had to be postponed. I think the papers are all ready to close up that deal by the American Commercial Alcohol Corporation taking over the Phagan contract.

Mr. PECORA. It is to take over the Phagan contract, or to take over the stock issued to Phagan in return for that note, by the Spirits Corporation subsequently called the American Distilling Co.

Mr. BROWN. I think the American Commercial Alcohol Corporation pays the note.

Mr. PECORA. The American Commercial Alcohol Corporation is going to pay Phagan's note?

Mr. BROWN. Yes, sir.

Mr. PECORA. Now, what was the plant or distillery property located at Pekin, Ill., that according to the statement in this supple-

mental report or statement to the New York Stock Exchange, was acquired by the American Distilling Co.?

Mr. BROWN. It was under lease.

Mr. PECORA. What was that?

Mr. BROWN. Under lease.

Mr. PECORA. Do you say under lease?

Mr. BROWN. Yes, sir.

Mr. PECORA. Who made the lease?

Mr. BROWN. It was between the American Commercial Alcohol Corporation and the American Distilling Co.

Mr. PECORA. That is to say, your Corporation giving a lease to the American Distilling Co.?

Mr. BROWN. Yes, sir.

Mr. PECORA. Covering its plant at Pekin, Ill.?

Mr. BROWN. That is correct. The reason for that is that operating as the company does now, the beverage regulations of the Treasury Department and of the Federal Alcohol Control Administration, requires every package to bear a serial number, and it has to bear the name of the manufacturer. And there again we come back to the point where we thought it would not appear advisable shown on a barrel of whisky that it was made by the American Commercial Alcohol Corporation. The Government stamp bears the name of the manufacturer. So we carry the name of the American Distilling Co., and the operations of the beverage business are carried under the name of the American Distilling Co.

Mr. PECORA. This distillery plant at Pekin, Ill., had been operated by the American Commercial Alcohol Corporation as a part of its business?

Mr. BROWN. Intermittently; yes, sir.

Mr. PECORA. Is that right?

Mr. BROWN. Yes, sir.

Mr. PECORA. And it was operated for the purpose of manufacturing alcoholic beverages?

Mr. BROWN. That is correct; yes, sir—no, not alcoholic beverages, but industrial alcohol.

Mr. PECORA. Yes; commercial alcohol.

Mr. BROWN. Yes, sir; commercial alcohol.

Mr. PECORA. Then the American Commercial Alcohol Corporation divested itself of that portion of its business and turned it over to the American Distilling Co.

Mr. BROWN. Well, the lease, at the time it was made, had to be filed with the Government before we could get a permit for the American Distilling Co. to do a beverage business, to conduct that business.

Mr. PECORA. The American Distilling Co. merely stepped into the shoes of the American Commercial Alcohol Corporation with respect to its Pekin plant, did it?

Mr. BROWN. Yes, sir; and the conduct of the beverage business. That is correct.

Mr. PECORA. And did that add anything to the assets of the American Commercial Alcohol Corporation?

Mr. BROWN. No. It was all hooked back, or a consolidated picture.

Mr. PECORA. It is the same thing, isn't it?

Mr. BROWN. It is a consolidated picture.

The CHAIRMAN. Do you mean that the stock of the American Distilling Co. is owned by the American Commercial Alcohol Corporation?

Mr. BROWN. Yes, sir.

Mr. PECORA. The American Commercial Alcohol Corporation acquired it by issuing stock to Knox B. Phagan.

Mr. BROWN. No stock was ever issued.

Mr. PECORA. How was it acquired?

Mr. BROWN. It has been acquired by a cancelation of the arrangement there, and a taking over of the contract of Phagan's, by which the note is going to be met by the American Commercial Alcohol Corporation, as a purely company transaction.

Mr. PECORA. These additional 25,000 shares, for the listing of which an application was made on July 19 last, to the New York Stock Exchange, are not to be issued?

Mr. BROWN. No, sir. The deal is all off.

Mr. PECORA. The plan for the issuance of those shares has been completely abandoned?

Mr. BROWN. Yes, sir.

Mr. PECORA. When was that decision made?

Mr. BROWN. In the first part of November.

Mr. PECORA. Last November?

Mr. BROWN. Yes, sir; just before Mr. Grimm went south as the result of a breakdown. And that increased my burden.

Mr. PECORA. Mr. Altschul, will you take the stand, please?

The CHAIRMAN. We will excuse you for a moment, Mr. Brown. Mr. Altschul, you will take the stand.

**TESTIMONY OF FRANK ALTSCHUL, NEW YORK CITY, CHAIRMAN  
OF THE COMMITTEE ON STOCK LIST, NEW YORK STOCK EX-  
CHANGE—Resumed**

Mr. PECORA. Mr. Altschul, I presume you have heard the testimony given this morning by the preceding witness, Mr. Russell R. Brown?

Mr. ALTSCHUL. I think I heard most of it; yes, sir.

Mr. PECORA. Are you familiar with the application filed by and on behalf of the American Commercial Alcohol Corporation dated July 19, 1933, with the New York Stock Exchange for the additional listing of 25,000 shares of the common stock of that corporation?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. I show you committee's exhibit no. 62 received in evidence this morning and ask you if you recognize it as a final printed application and the one in question?

Mr. ALTSCHUL. Yes, sir; I do.

Mr. PECORA. This application in due course, I assume, came before the stock list committee of the New York Stock Exchange last July while you were chairman of that committee?

Mr. ALTSCHUL. My recollection, Mr. Pecora, is that the proof no. 1 which is, I think, on all fours with the application, except that the opinion of counsel had not reached us at that time, was the thing before us.



Mr. PECORA. Was it the printed document known as proof no. 1 of this application, a copy of which I understand is before you, which came before the stock-list committee of the exchange last July?

Mr. ALTSCHUL. Yes, sir; I think so.

Mr. PECORA. And was it that proof of the application, that proof no. 1, which your committee acted upon.

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. And what was the action taken by your committee on this application?

Mr. ALTSCHUL. The action was to recommend the application to the governing committee subject to receipt of the material that was missing in the application itself.

Mr. PECORA. When did your committee take such action?

Mr. ALTSCHUL. I have a time table here I believe. [Addressing an associate:] Have you the date such action was taken? [After conferring:] July 24.

Mr. PECORA. 1933.

Mr. ALTSCHUL. Right.

Mr. PECORA. And when was it acted upon by the governing committee of the stock exchange?

Mr. ALTSCHUL. July 26, 1933.

Mr. PECORA. When the matter was passed on for action to the governing committee, did it have anything other than the data contained in proof no. 1 of the application?

Mr. ALTSCHUL. It had the opinion of counsel inserted in the manner in which it appears in the final signed copy. Have you a copy, sir, of proof no. 2? I do not seem to have a copy of it in my files, and that is the proof that went to the governing committee. Is the opinion of counsel inserted?

Mr. PECORA. I have what is designated as proof no. 2 of this listing application, which I would like you to look at.

Mr. ALTSCHUL. Yes, sir. That is the proof that went to the governing committee.

Mr. PECORA. Now, proof no. 2 of the application corresponds to proof no. 1 with the exception that there is a paragraph under the caption "Opinion of Counsel" which was not in proof no. 1 of the application.

Mr. ALTSCHUL. So far as I know, that is correct, sir.

Mr. PECORA. Proof no. 2 appears to have been O.K.'d for final printing and was printed as the final printed form of application, a copy of which is in evidence here as committee's exhibit no. 62; isn't that correct?

Mr. ALTSCHUL. That is correct, sir.

Mr. PECORA. Did you notice that the opinion of counsel for the American Commercial Alcohol Corporation contained a reference to absence of fraud in the application?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. Do you know from your experience as chairman of the stock list committee of the New York Stock Exchange whether or not such a reference is usually to be found in the opinion of counsel submitted in support of an application for listing?

Mr. ALTSCHUL. Well, it is very difficult for me to answer that positively, but I would think in a majority of cases it does not occur.

Mr. PECORA. When you noticed it in this particular opinion of counsel filed in connection with this application, did it excite any suspicion or feeling that the matter should further be inquired into?

Mr. ALTSCHUL. No, sir. We thought that that was a clause that was put in, because the final—this was an application for authority to list when a transaction under negotiation was finally completed, and that was simply the phrase that counsel used to protect themselves against the details of the transaction which they had not fully before them.

Mr. PECORA. It was a sort of a saving clause?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. For the protection of counsel?

Mr. ALTSCHUL. I don't know what that means legally. I suppose so. The full opinion is here. I suppose you have it.

Mr. PECORA. Yes, sir. Under the caption of "Authority for and purpose of issue" that appears not only in proof no. 1 of this application but also in the final printed application, the statement is made as follows:

The company proposes to issue upon due authority of the board of directors up to 25,000 shares of its common stock on account of the purchase of assets for which it is now negotiating and which may be acquired in the near future upon official notice of issuance and payment in full with a statement of the application of proceeds or property acquired. The shares which it is proposed to issue will be registered with the Federal Trade Commission in compliance with the provisions of the Securities Act of 1933.

Now, your committee approved this application without knowing what the assets which were to be purchased through the issuance of this additional stock actually were, didn't it?

Mr. ALTSCHUL. They approved the application under those conditions, sir, but the stock would not be issued until the information had been further furnished to us.

Mr. PECORA. Well, is it customary for the committee to make such conditional approvals of applications for stock listings?

Mr. ALTSCHUL. From time to time, when it is urged upon the committee that there are business reasons why the company wants authority to add to the list certain shares for a purpose that will be disclosed before the listing is actually granted, to facilitate the business we sometimes grant the authority, with a view to having a chance to review the situation further.

Mr. PECORA. Do those situations arise more or less frequently?

Mr. ALTSCHUL. They arise from time to time. They have arisen in other instances. I would not say they arise every meeting or every month, but they do arise from time to time.

Mr. PECORA. Wasn't any information whatsoever given to the stock-list committee or any of its examiners or attaches by the American Commercial Alcohol Corporation respecting the matter of the assets which that corporation hoped to acquire through the issuance of this additional stock?

Mr. ALTSCHUL. Speaking only for the stock-list committee, the information that was before them is the information in the application. There was no further information available.

Mr. PECORA. The information in the application is of the most general character.



Mr. ALTSCHUL. The comment of the examiners, which will throw some light on what had come into their hands, I think is in your possession, sir.

Mr. PECORA. By that comment do you mean, among other things, this so-called "memorandum" for Mr. Tirrell, signed by L. Hasselbach?

Mr. ALTSCHUL. No, sir.

Mr. PECORA. Dated July 20, 1933?

Mr. ALTSCHUL. No, sir; I don't mean that. I mean the comment to the committee, comment by Mr. Tirrell, meeting of July 24, 1933. Here; I will give you a copy, sir [handing document to Mr. Pecora]. The last thing on the page. That throws some light on the previous question, too, I believe, sir.

Mr. PECORA. I offer in evidence the document produced by the witness with respect to this comment.

The CHAIRMAN. Let it be admitted.

(Comment by Mr. Tirrell, meeting of July 24, 1933, produced by Mr. Altschul, was thereupon designated "Committee Exhibit No. 64, Feb. 21, 1934", and appears in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. The document has been received as "Committee Exhibit No. 64" and reads as follows [reading]:

AMERICAN COMMERCIAL ALCOHOL CORPORATION

7-24-33

Common stock \$20 par, additional listing 25,000 shares.

The applicant company is negotiating for the purchase of what it regards as one of the important distillery properties in Kentucky. The issue of stock up to 25,000 shares has been authorized by the directors in connection with this proposition. The company believes it will be very harmful to the negotiations to describe the properties in the application, but is apparently willing to give a full description in final printing if negotiations are closed before that time, or to make complete disclosure as soon as negotiations are terminated.

In somewhat similar cases the committee has respected the wishes of the company, with the understanding that such disclosures would be made at the earliest possible time, and, provided the company can obtain a satisfactory opinion from counsel in relation to the bearing of the Securities Law on the issue of this stock, there is no objection to the listing requested.

Meeting of July 24, 1933—Comment by Mr. Tirrell:

American Commercial Alcohol Corporation common stock \$20 par, additional listing 25,000 shares.

The company has been very late in submitting this application. For what it considers urgent business reasons, the company wishes to have the application considered by the committee at its meeting Monday. The stock has been fully authorized by its directors to be issued up to 25,000 shares in connection with the purchase of the assets of distillery properties in Kentucky. At the time of writing this comment the negotiations had not been finally completed, and until that time the company does not wish to announce, either in a draft of the application or in any other way, the name of the company whose properties are to be acquired.

In similar circumstances the committee, in the case of the Air Reduction Company, and more recently in connection with the Monsanto Chemical Company, has approved listing on condition that full disclosure be made promptly upon the termination of negotiations.

The company has been asked to submit opinion of counsel in relation to the bearing of the issuance of the stock covered by the application to the provisions of the securities law regarding registration. No definite opinion has been received, and unless this is cleared up before the meeting of the stock list committee, it may be considered an obstacle to the listing requested. An appearance before the committee has been arranged. If the company will undertake to make full disclosure regarding the properties to be acquired

promptly upon completion of negotiations, and can satisfy the committee with regard to the possible application of the securities law, there is no objection to the listing requested.

Now, Mr. Altschul, was the appearance before the committee which in this comment by Mr. Tirrell had been arranged actually consummated?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. And who appeared before the committee in behalf of the American Commercial Alcohol Corporation?

Mr. ALTSCHUL. According to my record here, sir, Mr. Brown.

Mr. PECORA. Mr. Russell R. Brown?

Mr. ALTSCHUL. I take it for granted Mr. Russell R. Brown—yes, Mr. Russell R. Brown. And Mr. Egginton and Mr. Heiss of Larkin, Rathbone & Perry.

Mr. PECORA. Mr. Egginton and Mr. Heiss are connected with the law firm of Larkin, Rathbone & Perry.

Mr. ALTSCHUL. Yes.

Mr. PECORA. Have you any minutes of the proceedings had before your committee in connection with that appearance?

Mr. ALTSCHUL. I have a copy, yes, sir, of the original, which is in your hands.

Mr. PECORA. Have you a copy of the minutes of your committee meeting at which this appearance was made before you?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. I have a copy here which you were kind enough to furnish to us, and I will read into the record, if you will kindly follow me while I do so.

Mr. ALTSCHUL. Right.

Mr. PECORA. The minutes with respect to such appearance before your committee, appearing at pages 154 and 155 [reading]:

#### AMERICAN COMMERCIAL ALCOHOL COMPANY.

There appear before the committee Messrs. H. Egginton and Mr. H. Heiss, Messrs. Larkin, Rathbone & Perry, counsel for the corporation, and Russell R. Brown, chairman of the board, and Cecil Page, secretary and director of the corporation.

The CHAIRMAN. The question you are discussing with us is the question of the need of registration under the Securities bill.

Mr. BROWN. We have decided to comply with the Act.

The CHAIRMAN. You are going to comply with registration?

Mr. EGGINTON. We have written an opinion that the Act does not apply. We checked it with our correspondence with the Federal Trade Commission, and they believe that the Act does apply. I think the opinion is entirely erroneous, but they are going to stick to it.

The CHAIRMAN. Then you will make application, I suppose, for approval on notice to this committee that the registration requirements be met with?

Mr. EGGINTON. Yes.

Mr. BROWN. That is correct.

Mr. EGGINTON. The listing application would be approved?

The CHAIRMAN. And you wanted to explain the secrecy in regard to the purchase of the stock until the deal you were interested in is completed, as I understood?

Mr. BROWN. I am perfectly—

The CHAIRMAN. At all events, when your final application comes in, if this stock is used, then the purpose for which it is used will be fully set forth?

Mr. BROWN. It will be disclosed.

The CHAIRMAN. Any other questions?

Mr. SEAMAN. No.

Mr. HOXSEY. No. They are to file a copy of the registration statement with this committee.

Mr. EGGINTON. We will file an opinion of counsel as to the propriety of the issue upon your approval, and also file a copy of the registration when that is concluded.

The CHAIRMAN. As I understand it, you cannot physically issue all the stock until 20 days. So if we pass it on official notice of issuance after the registration requirements have been complied with, then you are protected and we are.

Mr. EGGINTON. Yes.

Mr. SEAMAN. You say you are going to file an opinion. That is the opinion you do not think you have to comply?

Mr. EGGINTON. No; we have taken out the other expression of opinion.

The CHAIRMAN. I think that leaves no point further to discuss between us, unless you have something, Mr. Brown?

Mr. BROWN. No; I have nothing.

Messrs. H. Egginton, F. H. Heiss, Russell R. Brown, and Cecil Page retired. Application A-10,119 of American Commercial Alcohol Corporation approved for recommendation to the governing committee, subject to compliance with registration requirements under Securities Act of 1933 and disclosure of properties to be acquired with the securities issued hereunder.

That completes the minutes of that particular hearing.

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. And Mr. Seaman who is referred to in these minutes is another member of the stock list committee?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. Mr. Hoxsey is the—

Mr. ALTSCHUL. Executive assistant.

Mr. PECORA. Executive assistant to the committee?

Mr. ALTSCHUL. Correct.

Mr. PECORA. When was this meeting of your committee held at which Mr. Brown appeared and Mr. Page, Mr. Egginton, and Mr. Heiss?

Mr. ALTSCHUL. July 24, 1933, sir.

Mr. PECORA. And it was at that same meeting that you had before you the document marked in evidence here as "Committee Exhibit No. 64", which includes the comment for the guidance of the committee by Mr. Tirrell?

Mr. ALTSCHUL. The last part of that I am sure we had before us at that time. I don't remember if the first ones related to that or not. That important part we had before us. [Showing document to Mr. Pecora.] Does this relate to the same thing?

Mr. PECORA. Apparently; yes.

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. Apparently up to July 24, 1933, the representations that had been made to your committee and its executive—what do you call him?

Mr. ALTSCHUL. Assistant.

Mr. PECORA. Executive assistant, Mr. Hoxsey—

Mr. ALTSCHUL. And his staff.

Mr. PECORA. By and on behalf of the American Commercial Alcohol Corporation, were that it wanted to issue these additional 25,000 shares to enable it to acquire certain distillery properties in Kentucky?

Mr. ALTSCHUL. I don't want to try to bandy words, but that is not exactly accurate. They wanted to have authority to issue them in connection with the acquisition of the property.

Mr. PECORA. Yes.



Mr. ALTSCHUL. They could not issue it until then.

Mr. PECORA. No.

Mr. ALTSCHUL. I am sure we are quite in accord.

Mr. PECORA. The representations, in other words, which had been made to your committee up to the time that it approved this application on July 24, last, by or on behalf of the American Commercial Alcohol Corporation were to the effect that that corporation contemplated acquiring some distillery properties in the State of Kentucky, and in connection with such acquisition intended to issue additional shares up to 25,000; is that right?

Mr. ALTSCHUL. The purpose of issuing in the application that was before us read:

The company proposes to issue upon due authority of the board of directors up to 25,000 shares of its common stock on account of the purchase of assets which it is now negotiating and which may be acquired in the near future.

Mr. PECORA. Yes; but in the comment by Mr. Tirrell which is part of exhibit no. 64 that you produced—

Mr. ALTSCHUL. That is right.

Mr. PECORA. Mr. Tirrell stated specifically that "the company", meaning the American Commercial Alcohol Corporation—

has been very late in submitting this application. For what it considers urgent business reasons, the company wishes to have the application considered by the committee at its meeting Monday. The stock has been fully authorized by its directors to issue up to 25,000 shares in connection with the purchase of assets of distillery properties in Kentucky.

Mr. ALTSCHUL. That is right. You have my only copy of that now, sir, and I did not have that before me. That is right. I did not have that.

Mr. PECORA. So it is quite apparent from this that what has been told to the committee on behalf of the American Commercial Alcohol Corporation as the nature of the assets that it intended to acquire with the issuance of these additional 25,000 shares—

Mr. ALTSCHUL. That is right.

Mr. PECORA. Was the distillery property in Kentucky.

Mr. ALTSCHUL. That is correct, sir.

Mr. PECORA. Now, you heard the testimony this morning of Mr. Russell R. Brown, to the effect that what the corporation intended to acquire was the capital stock of a corporation known as the Spirits Corporation, which was in turn to acquire the capital stock of another corporation to be organized, called the Sid Klein Corporation, didn't you?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. And that testimony and the testimony given by Mr. Brown with regard to the organization of the Spirits Corporation and the acquisition of its stock by the American Commercial Alcohol Corporation had nothing to do with the acquisition of any distillery property in Kentucky, did it?

Mr. ALTSCHUL. I really cannot answer that question. I don't know whether there were distillery properties in Kentucky that were taken over in corporate form or not. I am not sufficiently familiar with it to know. There may have been.

Mr. PECORA. You heard the testimony of Mr. Brown that within a month after they made this application to your committee the

board of directors of his corporation completely abandoned the negotiations or that which it had in mind with respect to acquiring the distillery property in Kentucky?

Mr. ALTSCHUL. Mr. Pecora, I might say this—I mean I am not trying to question that at all—I am not familiar enough with Mr. Brown's testimony to be sure that I got all the implications of it, but the authority and purpose of the issue which we felt was before us and on which we acted, the actual document, in other words, is the listing application itself. But the comment of Mr. Terrill we considered in connection with it naturally, but the document which we thought covered the actual authorization and purpose was not, either so far as the company was concerned or so far as we were concerned, limited, in our mind, by Mr. Terrill's comment. I don't know whether that has any bearing on what you are driving at, but I wanted to make that quite clear.

Mr. PECORA. Well, are you overlooking the fact that—

Mr. ALTSCHUL (interposing). I am not overlooking the implications of that comment, Mr. Pecora. The point really is that the authorization that we granted was the broad authorization covered by the application, and that at the time we gave that authorization there was that comment before us. So the authorization was not in any sense limited by that comment.

Mr. PECORA. Here is a statement contained in committee exhibit no. 64, which is the document that you produced this morning, reading as follows:

The applicant company—

That is, the American Commercial Alcohol Corporation—

Mr. ALTSCHUL. That is right.

Mr. PECORA (continuing):

is negotiating for the purchase of what it regards as one of the important distillery properties in Kentucky. The issue of stock up to 25,000 shares has been authorized by the directors in connection with this proposition.

Mr. ALTSCHUL. I don't know whether the point that I am making has any bearing in connection with what you are leading to or not. So if you don't mind, I would just as leave pass it and see if it has any bearing.

Mr. PECORA. Who is the author of that statement which I have just read from committee exhibit no. 64?

Mr. ALTSCHUL. That is Mr. Tirrell, who is our chief examiner.

Mr. PECORA. That indicates to you, doesn't it, that Mr. Tirrell had been informed—

Mr. ALTSCHUL. Oh, yes; no doubt of it.

Mr. PECORA. By the American Commercial Alcohol Corporation—

Mr. ALTSCHUL. Yes.

Mr. PECORA. That that was the specific purpose which the corporation had in mind in connection with this proposed issue of 25,000 additional shares?

Mr. ALTSCHUL. Oh, no doubt about that at all. My only point was that the authority that we granted was based on broader terms than Mr. Tirrell's information would lead us to think.

Now, for instance, if on the listing application Mr. Tirrell's statement had been made as to the purpose and they had limited them-

selves to that specific purpose, and we had acted upon it in that way, that would have confined the listing to that extent.

My only point is that the manner in which it was acted upon was in conformity with the application of the company, and while we had that information and the information had some influence on our decision, the application itself did not take that form. As I say, I don't know whether that has any bearing on what you are leading up to.

Mr. PECORA. But, Mr. Altschul, when the committee acts on these applications, it acts not only on the statements and representations embodied in the application itself, but also on such reports and information placed before it by its own assistants?

Mr. ALTSCHUL. That is true.

Mr. PECORA. Does it not?

Mr. ALTSCHUL. Oh, yes; that is correct.

Mr. PECORA. And its assistants make, or are supposed to make, an investigation or inquiry and to lay before the stock list committee the results thereof in passing on these applications?

Mr. ALTSCHUL. That is correct.

Mr. PECORA. When applications of this kind come before your committee does your committee ever go behind the application or the report of its examiners and go directly to the corporate proceedings of the corporation?

Mr. ALTSCHUL. We get transcripts of the minute books authorizing the issue. We get a copy of the resolution of the board which authorizes the issue. Beyond that we do not go into the corporate records of the company.

Mr. PECORA. Did you get transcripts of the resolution of the board of directors of the American Commercial Alcohol Corporation with regard to this proposed issue?

Mr. ALTSCHUL. I think so. I think I have it here some place. Yes, sir [producing document].

Mr. PECORA. May I have the resolution?

Mr. ALTSCHUL (handing document to Mr. Pecora). There is a copy in your files, sir.

Mr. PECORA. Is this all you got by way of a copy of corporate resolutions?

Mr. ALTSCHUL. Yes, sir; and that is the resolution that is referred to on the face of the listing application in the authority and purpose to issue.

Mr. PECORA. I offer that document in evidence, the copy of the resolution produced by the witness.

The CHAIRMAN. Let it be admitted.

(Transcript from minutes of executive committee meeting of American Commercial Alcohol Corporation of July 19, 1933, was thereupon designated "Committee Exhibit No. 65, Feb. 21, 1934", and appears in the record in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. The document produced by the witness and just received in evidence as exhibit no. 65 reads as follows [reading]:



## AMERICAN COMMERCIAL ALCOHOL CORPORATION

TRANSCRIPT FROM THE MINUTES, EXECUTIVE COMMITTEE MEETING JULY 19, 1933

*Resolved*, That the proper officers of the Corporation be and they hereby are authorized to issue up to 25,000 shares of the Corporation's Common Stock in exchange for certain properties and assets of equivalent value, for the acquisition of which negotiations are now in progress, such stock, however, not to be issued unless and until final arrangements, approved by the Company's counsel and satisfactory to the Board of Directors, are made which will permit such stock to be issued full paid and non-assessable.

Certified a true record this 24th day of July, 1933.

(Signed) CECIL PAGE,  
Secretary.

Now I show you what purports to be a certificate of Cecil Page, secretary of the American Commercial Alcohol Corporation, attesting to the correctness and authenticity of certain resolution or certain resolutions adopted by the board of directors of the American Commercial Alcohol Corporation at a meeting thereof held on August 8, 1933. Will you look at it and tell me if you recognize it to be an original document filed with the stock-list committee of the New York Stock Exchange, as appears by the stamped endorsement thereon, on December 14, 1933?

Mr. ALTSCHUL. That is our stock-list stamp.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Certificate of correctness and authenticity of resolutions adopted by board of directors of American Commercial Alcohol Corporation on Aug. 8, 1933, was thereupon designated "Committee Exhibit No. 66, Feb. 21, 1934", and is as follows:)

## COMMITTEE EXHIBIT No. 66, FEBRUARY 21, 1934

I, CECIL PAGE, Secretary of American Commercial Alcohol Corporation, do hereby certify that the following is a true and correct copy of certain resolutions adopted by the Board of Directors of American Commercial Alcohol Corporation at a meeting of said Board duly called and held at the office of the Corporation on Tuesday, August 8, 1933:

*Resolved*, That this Company acquire from Mr. Knox B. Phagan, 10,000 shares of the no par common stock of the Spirits Corporation, a Maryland corporation, in consideration of the delivery by this company to Mr. Knox B. Phagan of 10,000 shares of the common stock of the par value of \$20 a share of this company;

*Further resolved*, That upon the assignment and transfer to this Company by Mr. Knox B. Phagan of said 10,000 shares of the Common No Par Stock of The Spirits Corporation, the proper officers of this Company be and they hereby are authorized either

(a) To issue, execute and deliver to or upon the order of Mr. Knox B. Phagan a certificate or certificates representing 10,000 shares of the Common stock of the par value of this Company; or

(b) To borrow from such sources and on such terms as said officers, being advised by counsel, may deem proper, 10,000 shares of the issued and outstanding Common Stock of the par value of \$20 per share of this Company, and to assign and transfer said 10,000 shares of said Common Stock when so borrowed to or upon the order of Mr. Knox B. Phagan, and thereafter, at such time as said officers, being advised by counsel, may deem advisable, to issue and deliver 10,000 shares of the Common Stock of the par value of \$20 each of this Company to or upon the order of the person, firm, or corporation from whom or which said stock shall have been so borrowed:

*Further resolved*, That in the judgment of the Directors of this Company the actual value of said 10,000 shares of the Common no par Stock of The Spirits Corporation is not less than \$465,000.

*Further resolved*, That the officers of the Corporation be and they hereby are authorized and directed to file with the Maryland State Tax Commission a Stock Issuance Statement in such form as the Commission shall require regarding the issuance of stock as aforesaid to be issued to said Mr. Knox B. Phagan and also to file same with any state authorities where required.

*Further resolved*, That said 10,000 shares of the Common Stock of this Corporation of the par value of \$20 per share, when issued to said Mr. Knox B. Phagan or his nominee, for the consideration hereinbefore stated, shall be and are hereby declared to be fully paid stock and shall not be liable to any further payment with respect to said shares.

*Further resolved*, That Mr. Cecil Page, the Secretary of this Corporation, be and he hereby is authorized and directed, upon the issuance of said 10,000 shares of the Common \$20 par Stock of this Corporation as aforesaid and receipt of payment in full, to advise the New York Stock Exchange thereof, together with a statement of the application of the proceeds or property acquired in said transaction in accordance with the terms of the application filed by this Company under date of July 19, 1933, (Application No. A-10,117) with the New York Stock Exchange, for the listing on said Exchange of 25,000 additional shares of the Common Stock of the par value of \$20 per share of this Company.

*Further resolved*, That the proper officers of the Corporation be and they hereby are empowered, authorized and directed to do any and all further acts and things which they, with the advice of counsel may deem necessary or proper to carry into effect all the matters hereinbefore set forth and the acts and things to be performed by this Corporation in connection therewith.

(Signed) CECIL PAGE,  
Secretary.

Mr. PECORA. This last document, marked in evidence as "Exhibit No. 66", shows upon its face, does it not, that it was not contemplated to issue any stock in exchange for the acquisition of the distillery property in Kentucky?

Mr. ALTSCHUL (after perusing document). I would say so, sir.

Mr. PECORA. I want you to look at exhibit no. 63 received in evidence this morning and consisting of the so-called "supplemental statement" filed with the committee on stock list, New York Stock Exchange, by the American Commercial Alcohol Corporation, of December 30, 1933, although apparently was submitted to the governing committee of the stock exchange on December 13, 1933. Will you look at it and tell me if you saw that or a copy of that before?

Mr. ALTSCHUL (after examining document). Yes, sir.

Mr. PECORA. Was any investigation made of the condition reflected by the balance-sheet statement which forms part of this supplemental statement?

Mr. ALTSCHUL. No, sir; and, Mr. Pecora, you understand that that is not the document that was before the stock list committee in connection with the application of listing these 10,000 shares, don't you?

Mr. PECORA. Well, that was in the information, the supplemental information which, according to the requirement of the stock list committee, was to be furnished by the American Commercial Alcohol Corporation, was it not?

Mr. ALTSCHUL. At the time this came before the stock list committee, you will find in your files—I don't know whether this is your numbering or not—but you will find a document dated November 23, 1933, which preceded that.



Mr. PECORA. What is the November, this third document?

Mr. ALTSCHUL. I don't know whether this is what you refer to or not [handing document to Mr. Pecora]. It comes from your files.

Mr. PECORA. The document you produced bearing date November 23, 1933, is identical with the first two printed paragraphs of the document marked "Exhibit No. 63", isn't it?

Mr. ALTSCHUL. Yes, sir; I think so. I think you will find this is in printed form similar to this, without the other material, in your files. It is merely a proof, in other words.

Mr. PECORA. The situation presented to your committee was that on July 19, 1933, application in its final form was filed with your committee, or rather proof no. 2 was before your committee, which showed that the company wanted to issue up to 25,000 shares in order to enable it to purchase certain unnamed, undesignated assets?

Mr. ALTSCHUL. I think that was proof no. 1, sir, but the rest of your statement is correct.

Mr. PECORA. Proof no. 1, all right. And that application when it came before your committee for action on July 24, last, was supplemented with information given to your committee by its examiners, namely, Mr. Tirrell and Mr. Hasselbach, in the form of the document marked in evidence here as committee exhibit no. 64? Isn't that so?

Mr. ALTSCHUL. Oh, yes; it was supplemented by that information.

Mr. PECORA. Yes; and on July 24 when your committee met and approved this application it was told by its examiners that the purpose of the issue, the proposed issue rather, of the 25,000 shares was to enable the American Commercial Alcohol Corporation to acquire one of the important distillery properties in Kentucky; is that right?

Mr. ALTSCHUL. That is correct, sir.

Mr. PECORA. On the 24th of July your committee approved the application, and on the 26th of July it was also approved by the governing committee of the stock exchange?

Mr. ALTSCHUL. That is correct, sir.

Mr. PECORA. Presumably on the same information which your committee had?

Mr. ALTSCHUL. No, sir.

Mr. PECORA. What else did it have?

Mr. ALTSCHUL. It had less than that. It had the information that is contained in the face of the application. That is what I was trying to make the point before, that the authority and purpose of the issue, by which we were bound and by which the company was bound, or as we understood, was the authority and purpose of the issue as outlined in the listing application, and not in any supplementary information that may have come through this memorandum.

Mr. PECORA. On July 24, when your committee approved the application, it approved it with knowledge given to it by its own examiners that the purpose of the proposed issue was to enable the American Commercial Alcohol Corporation to acquire one of the important distillery properties in Kentucky?

Mr. ALTSCHUL. That is correct.

Mr. PECORA. That is correct?

Mr. ALTSCHUL. That is correct. On the other hand, the action of the committee was not limited in its formal action by those circumstances. The action of the committee was broader, and as I am trying to point out, the action of the committee was in accordance with the face of the document. In other words, if the application had read, if they had come to us and had actually made the statement to us that this was for the purchase of a distillery, and they had put that in as the purpose of the issue, and it had gone out to the public and the shareholders as the purpose of the issue, that would have been the action of the governing committee, and the purpose of the issue would have been that. This information was interesting information, but it did not determine the scope of the action of the committee. That is the point I am trying to make.

Mr. PECORA. Didn't you regard the information given to your committee by its own assistants as information which those assistants had obtained for the guidance of your committee?

Mr. ALTSCHUL. Oh, yes; we regarded that as information that they had obtained and they had submitted to us, surely.

Mr. PECORA. For the purpose of guiding your committee in its action on the application?

Mr. ALTSCHUL. Surely; and if they had obtained any other different information and had stated that it was for the purpose of purchasing another property, the action conceivably would have been just the same. My point is that the breadth of the authorization went beyond Mr. Tirrell's memorandum and can only be considered, it seems to me, as being the authority and purpose of the issue which they stated in their official application, and which is what we approved.

Mr. PECORA. The breadth of the authorization embodied in the signed application which your committee approved there was to the effect that the company, the American Commercial Alcohol Corporation, was to issue the stock on account of the purchase of assets. That is all it said.

Mr. ALTSCHUL. That is right.

Mr. PECORA. That is the only description it gave of the assets.

Mr. ALTSCHUL. That is right. And as I understand your question—

Mr. PECORA (interposing). Now, your committee would not have acted merely on that general information would it?

Mr. ALTSCHUL. We would have authorized it on the understanding that we were going to get the information before it was actually placed on the list.

Mr. PECORA. Did you get that information?

Mr. ALTSCHUL. That information is covered by that document that I handed to you and the one you are speaking from, as the only information we had.

Mr. PECORA. The information as covered by which document?

Mr. ALTSCHUL. That one, the one you have in your hand.

Mr. PECORA. This?

Mr. ALTSCHUL. And then later amplified in the one that you showed me.

The CHAIRMAN. At this meeting at which Mr. Brown and his attorneys appeared before your committee, did they go into this question at all, about the assets?

Mr. ALTSCHUL. The meeting that we discussed a few minutes ago, Senator?

The CHAIRMAN. Yes.

Mr. ALTSCHUL. No, sir. It had been represented to us that they wanted to get the authorization to issue the stock actually to be issued at the time of the disclosure, and that they did not want a record of what it was that they were going to acquire to be made public until they had completed their negotiations, and we accepted that explanation.

The CHAIRMAN. Do you know that they ever made a registration before the Federal Trade Commission?

Mr. ALTSCHUL. I am not—except I heard something about it to-day which I did not understand very well—but I am not informed as to what steps they took in regard to registration.

Mr. PECORA. The subsequent information that you got does not refer in any way to the acquisition of any distillery property in Kentucky, does it?

Mr. ALTSCHUL. As I remember it, it does not. Mr. Pecora, your point apparently is that the subsequent information is inconsistent with Mr. Tirrell's comment.

Mr. PECORA. Yes, sir.

Mr. ALTSCHUL. No question about that. I agree. My point is that the subsequent information is not inconsistent with the authority and purpose of the issue which we actually acted on.

Mr. PECORA. But Mr. Tirrell's comment was with reference to the purpose of an issue set forth in the company's application to the stock exchange?

Mr. ALTSCHUL. That is quite right.

Mr. PECORA. Had you any reason to doubt, from Mr. Tirrell's comment to your committee, that he was told by the officers and directors of the American Commercial Alcohol Corporation that the specific purpose of the issue was to enable that corporation to acquire a distillery property in Kentucky.

Mr. ALTSCHUL. No reason to doubt it at all, but we did not limit the authority of the listing to that specific purpose.

Mr. PECORA. All right; when you got the subsequent information in the month of December 1933, you yourself have noted that it was inconsistent with the information given to your committee by its examiner, Mr. Tirrell, and which in turn was based upon information he obtained from the corporation?

Mr. ALTSCHUL. That is correct.

Mr. PECORA. Did your committee, in view of that inconsistency, make any inquiry into the real purpose of the proposed issue?

Mr. ALTSCHUL. It did not. The information was consistent, as we saw it, with the authority and purpose for issue as contained in the listing application, which I have tried to point out was the document which we considered governed it.

Mr. PECORA. And as I again want to remind you, according to your own testimony it was inconsistent—

Mr. ALTSCHUL. No doubt about that.

Mr. PECORA (continuing). With the purpose stated to Mr. Tirrell, as an examiner of your committee, by the officers of the corporation and conveyed by him to your committee?



Mr. ALTSCHUL. Correct.

Mr. PECORA. Wasn't that a circumstance that, frankly, should have put the committee on inquiry with regard to the real purpose of this issue?

Mr. ALTSCHUL. I am afraid that must be a matter of opinion. I would not think so, Mr. Pecora. We did not know precisely what this was being done for. We did not know—all we knew was definitely and precisely what the authority and the purpose of the issue was that we had authorized, as is outlined in very broad terms in the listing application.

Mr. PECORA. On December 7, 1933, there came before your committee this supplemental statement from the American Commercial Alcohol Corporation dated November 23, 1933, which merely states with regard to the specific purpose of the issue as follows:

Since the date of said application arrangements have been made for the issuance of 10,000 of said 25,000 additional shares to Mr. Knox B. Phagan in exchange for the entire capital stock, being 10,000 shares of common stock without par value, of the American Distilling Co., a Maryland corporation.

Did your committee ever make any inquiry into the American Distilling Co.?

Mr. ALTSCHUL. My recollection is that in one of these papers you will find a note of one of our staff asking for the balance sheet and the income account.

Mr. PECORA. All right now; you got that balance sheet embodied in the supplemental printed statement—

Mr. ALTSCHUL. That is right.

Mr. PECORA (continuing). Also dated November 23, 1933, a copy of which has been received in evidence here as committee exhibit 63?

Mr. ALTSCHUL. That is quite right, sir.

Mr. PECORA. Which you have seen?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. When you got that balance sheet and that supplemental statement was any inquiry made as to the assets of the American Distilling Co.?

Mr. ALTSCHUL. No, sir.

Mr. PECORA. None at all?

Mr. ALTSCHUL. No, sir.

Mr. PECORA. Despite the fact that among the assets was a note receivable amounting to \$465,000; is that right?

Mr. ALTSCHUL. That is right. This, Mr. Pecora—

Mr. PECORA. Yes?

Mr. ALTSCHUL. This application was for listing of additional stock. I don't know whether you want me to go into that again in regard to our procedure, but in connection with the application for a listing of additional stock we first have before us the fact that the stock of the company has been listed in the first instance and at that time supposedly an investigation of it has been made. The shareholders in the company have by that time taken on the status of owners of shares listed on the exchange, and this materially affects their rights.

Now, then, a company comes along in that situation and applies for the authority to add additional stock to the list. The application is made pursuant to authority granted by the board of directors

under powers that are given them apparently by the laws of the State in which they are incorporated. We get the opinion of responsible counsel, who are familiar with the whole question.

Mr. PECORA. But that opinion in this particular case said that the stock would be valid in the absence of fraud?

Mr. ALTSCHUL. That is correct.

Mr. PECORA. In the application?

Mr. ALTSCHUL. I am just outlining the steps of our procedure for the moment.

We have a statement of the purposes of the issue, and we take at that time such steps as seem to be requisite to bring the financial statements of the applicant company itself, not necessarily the company that it is acquiring, but the applicant company itself, down to date, and also we take the steps that we can to bring the applicant company into accordance with any new agreements that the exchange may have drawn up since the time of an earlier application. And when we have done that we act on the application on the basis of that information.

The CHAIRMAN. Was there anything ever done under this application for 10,000 shares? Was anything ever done under that?

Mr. ALTSCHUL. I beg your pardon, Senator?

The CHAIRMAN. Was anything ever done to that application?

Mr. ALTSCHUL. To this application?

The CHAIRMAN. Yes.

Mr. ALTSCHUL. This application went to the governing committee on December 19 for their information. Does that answer your question?

The CHAIRMAN. Is that all?

Mr. ALTSCHUL. Yes, sir. You understand the shares under this have never been issued in this case.

Mr. PECORA. It is no fault of the stock exchange that the shares have never been issued. The stock exchange paved the way for its issuance, didn't it, by its action approving the listing?

Mr. ALTSCHUL. The stock exchange authorized the listing.

Mr. PECORA. You said last week in passing upon the pro forma balance sheet that was discussed in the course of your testimony in connection with the Noxon, Inc., that if your committee had had pro forma balance sheet before it, its attention would have been excited.

Mr. ALTSCHUL. That is correct.

Mr. PECORA. By an item of notes receivable, \$270,000. Do you say the same thing with regard to this balance sheet?

Mr. ALTSCHUL. No, sir.

Mr. PECORA. What is the difference between them?

Mr. ALTSCHUL. I said before the committee last week, if I remember correctly, that the notes receivable, the large item for patents, promotion, and so forth, whatever it was, and the whole general aspect of the balance sheet, would have aroused our attention. I don't remember my exact words. Maybe you have them before you.

In this case there was a balance sheet presented which showed a 2 for 1 liquid position. It was supported by an income account that showed some earnings, and the whole thing could reasonably have made the impression of just a small independent company. It



would not have excited my attention, at any events, to anything like the extent that the other one would.

Mr. PECORA. You gave full faith and credit to the balance sheet, didn't you?

Mr. ALTSCHUL. We did not go beyond it; no, sir.

Mr. PECORA. Did not go beyond it. You produced here committee exhibit no. 66, which is resolution adopted by the board of directors of the American Commercial Alcohol Corporation on August 8, 1933, as certified to by Mr. Page, as secretary of that corporation, and that resolution sets forth, does it not, that the assets of the spirits corporation were worth not less than \$465,000, which corresponds exactly with the item of notes receivable shown in the balance sheet of the supplemental statement submitted to your committee last December?

Mr. ALTSCHUL. That is correct.

Mr. PECORA. Wouldn't that have excited your suspicion that the situation was one that required further inquiry by your committee?

Mr. ALTSCHUL. It did not.

Mr. PECORA. Under similar circumstances do you think your committee would act in exactly the same way as it did on this application?

Mr. ALTSCHUL. Well, now, that is a hypothetical question that is very difficult for me to answer.

Mr. PECORA. You are the chairman of the stock list committee and supposedly more or less familiar with the policy of the committee in passing on these applications. If a similar situation were to present itself to your company is it fair to say that it would take the same action?

Mr. ALTSCHUL. If the committee had before it nothing that drew to its attention anything suggestive of bad faith or impropriety, I think they would take the same action.

Mr. PECORA. The committee then, without inquiring as to whether or not any bad faith was being exercised in connection with the making of an application, assumed and took it for granted that there was no bad faith and hence made no inquiry; isn't that so?

Mr. ALTSCHUL. To answer your question directly first; yes, sir. In the absence of bad faith, the committee would not go beyond—did not attempt to substitute its judgment for the judgment of boards of directors who have, after all, been elected by the stockholders to look after their interests. If a board of directors decides to acquire some properties, they come and submit to us the relevant information, and we try to have the information set forth on which the board of directors acted, which they give us, so that the stockholders and the public can see it. But we do not attempt to go behind the action of the board of directors in the absence of bad faith and substitute our judgment in a lot of business matters or the judgment of others that are supposed to exercise their judgment.

Mr. PECORA. How would you expect to see any evidence of bad faith in view of the fact that the committee makes no inquiry?

Mr. ALTSCHUL. Well, we examine the facts that are presented to us. We make no inquiry.



Mr. PECORA. And if the facts are set forth in clear enough fashion as to indicate no bad faith, the committee makes no inquiry and acts upon the representations placed before it?

Mr. ALTSCHUL. As I understand, you are limiting your question to the matters that we are discussing. You are limiting your question to what we have done in connection with an application—

Mr. PECORA. In connection with an application for listing of additional stock.

Mr. ALTSCHUL. In connection with an application for listing additional stock. At the time of the initial listing, you understand, sir, the company has entered into an agreement with us that they will apply to us for the listing of additional stock to be issued for any corporate purpose whatsoever. Under that agreement they cannot get this stock issued unless they come and apply to us and unless the listing application is granted.

When we get these listing applications for additional stock, we, in the absence of anything that puts us on notice or suggests to us that there might be something more that we ought to look into further, we do not attempt to go behind the situation to find out whether the board of directors who presented this application are facing us with the facts or facing us or acting in good faith, or whether the facts that are disclosed are in accordance with what the board of directors say they are. We assume that the board of directors are coming to us using their own judgment and exercising their own authority in accordance with the laws of the State in which they are incorporated, and present us with a picture of the situation as it really is.

Mr. PECORA. Then, if a corporation, the stock of which has already been listed on the exchange, desires an additional listing and states to your committee in proper form and in good verbiage and accompanied by an opinion of counsel that everything is valid, and states that the proposed additional issue for which listing is sought is to be made to enable the corporation to acquire the assets of the capital stock of another corporation, and sets forth the assets of that other corporation are worth, we will say, \$10,000,000, 40 percent of which is represented by notes receivable, your committee would make no inquiry into the value of those assets or for the purpose of determining whether or not the corporation is receiving full value for its proposed additional stock?

Mr. ALTSCHUL. The mere fact of 40 percent of the assets being represented by notes receivable would cause us, in itself, no alarm, because, after all, 40 percent of the assets of many companies are represented by notes receivable.

Mr. PECORA. But you would not inquire as to the nature of the assets or the value of them in any way, shape, or form, if everything on the surface is regular?

Mr. ALTSCHUL. If everything on the surface in connection with the additional listing of stock appears to be in accordance with the discretion and the reasonable authority of the board of directors, we will not go into that further. That is not our practice.

Mr. PECORA. You would not?

Mr. ALTSCHUL. No, sir.

Mr. PECORA. Do you approve that policy?

Mr. ALTSCHUL. Now——

Mr. PECORA. What is that?

Mr. ALTSCHUL. We learn all the time, the committee on stock list, sir.

Mr. PECORA. Do you now approve that policy?

Mr. ALTSCHUL. I would like to think about the things, because there are many implications in that question. The policy, after all is based upon, and has always been based upon, what seems to me a reasonable ground, and what still seems to me a reasonable ground, and that is that the stock exchange is not undertaking to police the management of corporations and is not undertaking to run corporations. That is the function——

Mr. PECORA (interposing). Would the stock exchange be undertaking the policing and the running of a corporation making an application to list additional shares which it states it is going to issue to acquire other properties, if the stock exchange limited itself to an inquiry into the value of those other properties, so as to give an assurance to the investing public when it approves such an application that at least in the opinion of the stock exchange, after proper investigation by it, the issue is properly being made?

Mr. ALTSCHUL. Well, the answer to that question I haven't any doubt at all. I don't think the stock exchange could conceivably reach a judgment as to the value of these properties. They never try to reach a judgment as to the value of properties. If boards of directors in a thousand different industries, or in any one of a thousand different industries, knowing the status and the circumstances of their own industry, favor a purchase of assets in their own particular industry, we would not attempt to set our judgment of the value of what they are buying over against the judgment of their board of directors. Now, that has been the consistent policy of the exchange, and if you ask whether I approve of it, I think any other policy would be impossible of performance.

We try and get the facts set forth, but we cannot judge of the values of this stock; we cannot say whether we think a deal is a fair deal for the corporation to have made. After all, that is the responsibility of the directors, to decide whether a deal is a fair deal. Our responsibility has always seemed to us to be limited to seeing that the facts with which we are dealing are fairly set forth in the application.

The CHAIRMAN. Have you any jurisdiction to inquire into the good faith of the applicant?

Mr. ALTSCHUL. Well, I don't know as to the jurisdiction, sir. If we had any reason to question the good faith of the applicant, we——

The CHAIRMAN. Do you go into the question of good faith?

Mr. ALTSCHUL. Only if there is something before us that arouses our suspicion with regard to it. We generally approach applicants on the broad theory that they are acting in good faith, and particularly when their actions are supported by opinion of reputable counsel who, as I say, are familiar with the application. Now that has always been our practice.

Mr. PECORA. In other words, you treat the applications with the presumption that they are made in good faith?

Mr. ALTSCHUL. We certainly do.

Mr. PECORA. And unless something special is brought to your notice——

Mr. ALTSCHUL (interposing). Either on the face of the application or otherwise.

Mr. PECORA. Or that appears on the face of the application, that impeaches that good faith——

Mr. ALTSCHUL. That is correct.

Mr. PECORA. Your committee would make no inquiry into the good faith?

Mr. ALTSCHUL. Would make no inquiry into the good faith or the business judgment of the boards of directors of the applicant companies.

Mr. PECORA. And if your committee received an application for an additional listing which set forth that the purpose of the issue of the additional shares was to acquire the property of another corporation, worth we will say 5 million dollars, or 1 million dollars——

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. One million dollars—your committee would make no effort to determine whether or not the corporation was issuing that stock for good and sufficient value, would it?

Mr. ALTSCHUL. In the absence of anything to suggest bad faith, we would consider that that was a determination that was up to the boards of directors of the applicant companies and that any controversy about that was a controversy, if it arose, that arose between the shareholders and their management.

Mr. PECORA. And then with that action taken by your committee, the corporation would be free to advertise to the world that it had obtained the approval of the New York Stock Exchange to the listing of these additional shares issued for what it would represent to the world as good and sufficient and full value?

Mr. ALTSCHUL. They would undoubtedly state that the shares had been listed. I don't know whether that is what you mean by advertise to the world or not. They undoubtedly would be free to say that the shares had been listed on the New York Stock Exchange.

Mr. PECORA. And that the New York Stock Exchange, in giving the privilege of listing, had been told that the shares were to be issued for the acquisition of property worth a specified sum?

Mr. ALTSCHUL. The public could see from the listing application all the information that we have before us.

Mr. PECORA. Has any action been taken within recent dates upon this application or with respect to this application by your committee?

Mr. ALTSCHUL. We have been too much occupied with affairs here, but undoubtedly the information that has been drawn out at this hearing—and I have not seen the full record of the testimony, but we want to have a chance to go over it very carefully—is such as to make it perfectly clear that we should carry on an independent investigation to determine just what did happen and what bearing that has on the documents which were submitted to us and what our action should be under all the circumstances.

Mr. PECORA. And all of the information which has been developed here could undoubtedly have been obtained by your examiners if an



inquiry had been made into all the facts involved in this transaction, could it not?

Mr. ALTSCHUL. That is a question I cannot answer. It depends on so many things. You know we haven't witnesses appearing under oath. I don't know what that examination would develop, and I do not believe I could answer that question.

Mr. PECORA. Well, the fact that you could not have witnesses appear under oath is a circumstance that would militate against the effectiveness of an inquiry by your committee, isn't it?

Mr. ALTSCHUL. I would not be prepared to say that.

Mr. PECORA. What is that?

Mr. ALTSCHUL. I would not be prepared to say that.

Mr. PECORA. You just remarked yourself that the committee had no power to get statements under oath.

Mr. ALTSCHUL. I just remarked that I could not answer your question as to whether an investigation of ours would draw out the same results. If our suspicions had been aroused in this situation and we had made an examination, we might have found what you found so skilfully after a great deal of effort down here. I don't know.

Mr. PECORA. I might remark, Mr. Chairman, that under the bill pending in Congress for the regulation of stock exchanges, inquiry under oath can be made and punishment meted out to persons who violate their oath, and also to those who make false representations of any kind in connection either with the listing of the security or the marketing of it.

The CHAIRMAN. That would seem to be an important provision.

Mr. PECORA. I think that is all. Will you remain this afternoon? I want to question you about another matter.

Mr. ALTSCHUL. Yes, sir; what time do you want me here, Mr. Pecora?

The CHAIRMAN. We will take a recess now until a quarter after 2. (Accordingly, at 1:12 p.m., a recess was taken until 2:15 p.m. of the same day.)

#### AFTERNOON SESSION

The committee resumed at 2:15 p.m. on the expiration of the recess.

The CHAIRMAN. The committee will come to order. Who will you have now, Mr. Pecora?

Mr. PECORA. Mr. Brown will please resume the stand.

#### TESTIMONY OF RUSSELL R. BROWN—Resumed

Mr. PECORA. Mr. Brown, do you recall that a special meeting of the stockholders of the American Commercial Alcohol Corporation was held on July 21, 1933?

Mr. BROWN. Yes.

Mr. PECORA. What was the particular necessity or occasion for that special meeting?

Mr. BROWN. I think it was the increase of the stock at that time.

Mr. PECORA. And a printed notice of that special meeting was sent to stockholders by the corporation, was it not?

Mr. BROWN. Yes, sir.

Mr. PECORA. And the printed notice, with a form of proxy attached thereto, appears in the minute book of the board of directors of the corporation, heretofore marked as "Committee Exhibit No. 14" for identification. It appears at the place where I now show you, does it not?

Mr. BROWN (looking at the minute book). Yes, sir.

Mr. PECORA. I want to read into the record the notice of the special meeting of stockholders identified by the witness, and the form of proxy attached thereto:

American Commercial Alcohol Corporation.

Notice of special meeting of stockholders.

Notice is hereby given that a special meeting of stockholders of the American Commercial Alcohol Corporation, organized under the laws of Maryland, will be held at the office of said corporation, Room No. 1628, Baltimore Trust Building, No. 10 Light Street, Baltimore, Maryland, on July 21, 1933, at 12 o'clock noon Eastern Standard Time, to consider and act upon certain resolutions which will be presented at said meeting in respect of the following matters:

1. To amend the certificates of incorporation as amended, by increasing the number of shares of common stock, of the par value of \$20 a share of said corporation, from 375,000 to 500,000, as set forth in certain resolutions of the Board of Directors declaring such amendment advisable, passed at such meeting of said Board duly called therefor on June 30, 1933.

2. To amend the by-laws in the following respects:

(a) To enable meetings of stockholders of the Corporation, if desired, to be held without the State of Maryland as permitted by a recent amendment of the general corporation law of the State of Maryland.

(b) Specifically to empower the directors at such meetings to transact any business without special notice.

(c) To permit directors absent from any meeting to vote for and record their approval in the matter of any action taken thereat.

(d) To permit the Executive Committee of the Board of Directors of the Corporation to appoint members of the Board of Directors to act in the place of members of the Executive Committee temporarily absent.

3. To approve, ratify, confirm and adopt any and all acts, transactions, and proceedings theretofore taken or authorized by the Board of Directors, Executive Committee, and officers of the Corporation or ratified thereby, whether pursuant to previous authorization of the stockholders or otherwise, including without in any way limiting generally the same, and the foregoing issuance of common stock of the Corporation in the acquisition of the stock of other corporations as subsidiaries, whether wholly owned or otherwise.

4. To consider and act upon such other business as may be properly brought before the meeting.

The stock transfer books of the Corporation will not be closed.

Only stockholders of record on July 10, 1933, at 3 p.m. Eastern Daylight Saving Time, will be entitled to vote at said meeting.

You are cordially invited to be present at said meeting, but if you are unable to do so you are requested to sign, detach and return the attached proxy in the enclosed envelope. Your name should be signed exactly as it appears on your stock certificate.

If you should attend the meeting your proxy will be returned to you at that time.

By order of the Board of Directors:

CECIL PAGE, *Secretary.*

NEW YORK, N.Y., *July 10, 1933.*

And the proxy form attached to this notice of special meeting reads as follows:

Proxy.

American Commercial Alcohol Corporation.

Special meeting of stockholders.

Know all men by these presents: That the undersigned stockholder of the American Commercial Alcohol Corporation, a Maryland corporation, has made,

constituted and appointed, and does hereby make, constitute and appoint Russell R. Brown, Richard H. Grimm, William S. Kies, and Philip Publicker, or any one or more of them, with full power of substitution, the true and lawful attorneys in fact and proxies of the undersigned at the special meeting of stockholders to be held July 21, 1933, at the office of the Corporation, Room 1628 Baltimore Trust Building, No. 10 Light Street, Baltimore, Maryland, or at any adjournment or adjournments of said meeting, and at any such meeting or meetings to vote the shares of stock of said Corporation owned and held by the undersigned, in favor of the proposed amendments of the charter and the certificate of incorporation and by-laws of the Corporation; and the ratification of the proceedings of the Board of Directors, Executive Committee, and officers of the Corporation, all as set forth in the notice of said special meeting, dated July 10, 1933, a copy of which the undersigned has received; and upon any and all other matters which may come before said meeting, pursuant to said notice, and to do any and all acts and things which the undersigned might or could do if personally present, hereby ratifying and confirming all that said attorneys and proxies of the undersigned, or either of them, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

A majority of said attorneys and proxies shall be present and act at such meeting, or if only one shall be present and act, then he may have and exercise all powers hereunder.

In witness whereof the undersigned this — day of July, 1933.

And then there is a space for the signature of the stockholder, and space for the signature of a witness.

Now, Mr. Brown, who appointed the four men who were named as proxies or attorneys for the stockholders in this form of proxy?

Mr. BROWN. I assume they were appointed at the board meeting.

Mr. PECORA. They were appointed at the board meeting by whom?

Mr. BROWN. By me, I imagine.

Mr. PECORA. You say by you?

Mr. BROWN. Yes, sir.

Mr. PECORA. The board meeting to which you refer and as to which said appointments were made, was the board meeting held on June 30, 1933, was it not?

Mr. BROWN. I think that is correct; yes sir.

Mr. PECORA. And was this form of notice of this special meeting of stockholders that I have read into the record, together with the form of proxy attached, presented and approved at that board meeting?

Mr. BROWN. I should assume so; yes, sir.

Mr. PECORA. As bearing on that let me read from the minutes of the board meeting held on June 30, 1933, the following extract:

Form of notice of meeting of stockholders to be held July 21, 1933, as aforesaid, with said form of proxy attached thereto, was presented and approved, and a copy of said notice and proxy, marked "Exhibit A" are attached to the minutes.

The secretary was directed to notify the New York Stock Exchange of a proposed meeting, and the record date of stockholders entitled to vote thereat in accordance with this corporation's agreement with said exchange.

Enclosed is a copy of notice of meeting above referred to.

Do you recall that action?

Mr. BROWN. Yes, sir.

Mr. PECORA. Let me read further what is inserted in the minutes of the meeting of your board held on June 30, last, as follows:

In accordance with the authority conferred by the board of directors of the American Commercial Alcohol Corporation at a meeting held June 30, 1933, I hereby appoint Russell R. Brown, Richard H. Grimm, W. S. Kies, and Philip



Publicker as proxies and attorneys in fact, to receive proxies from the stockholders, and to act on their behalf and on behalf of the corporation, at the special meeting of stockholders to be held on July 21, 1933.

And this is signed Russell R. Brown, chairman of the board. Is the signature reading "Russell R. Brown" in your handwriting, Mr. Brown?

Mr. BROWN (after looking at the paper). Yes, sir.

Mr. PECORA. Now, I show you, or rather I first ask you, if this printed notice of the special meeting of stockholders was in due course sent to all stockholders of record?

Mr. BROWN. I assume so; yes, sir.

Mr. PECORA. With the attached form of proxy?

Mr. BROWN. I assume so; yes, sir.

Mr. PECORA. Did you attend this special meeting of stockholders on July 21, last?

Mr. BROWN. I do not think so; no, sir.

Mr. PECORA. Do you know who did attend it?

Mr. BROWN. I think Mr. Page did.

Mr. PECORA. What was that?

Mr. BROWN. I say, I think Mr. Cecil Page attended.

Mr. PECORA. Mr. Page was not one of the proxies or attorneys in fact named in the proxies, was he?

Mr. BROWN. But as I understand, the proxy provides for a substitute.

Mr. PECORA. Yes; the form of proxy provides "with full power of substitution."

Mr. BROWN. Yes, sir.

Mr. PECORA. Was such substitution given by all four of the proxies and attorneys in fact named in the form of proxy?

Mr. BROWN. If I remember correctly, yes, sir.

Mr. PECORA. So that Mr. Page was the one who acted under whatever proxies were sent by stockholders of your corporation, to represent them at this special meeting held on July 21 last?

Mr. BROWN. I think that is correct.

Mr. PECORA. Do you know how many stockholders were actually present in person at that meeting?

Mr. BROWN. No, sir.

Mr. PECORA. Have you ever learned?

Mr. BROWN. I do not remember; no, sir.

Mr. PECORA. Well, from your experience with the stockholders of your corporation, and of other corporations for that matter, would it indicate that only a very few did attend?

Mr. BROWN. That is right.

Mr. PECORA. According to the minute book of your corporation which I have before me, the special meeting of stockholders of your corporation, called originally for July 21, was adjourned to August 1, at which time it was held in the office of the corporation in the Baltimore Trust Building, in Baltimore, Md. Do you recall that?

Mr. BROWN. Yes, sir.

Mr. PECORA. And I have before me the minutes of that special meeting of holders of stock of your corporation, on August 1, 1933, those minutes being embodied in the minute book of the board of directors of your corporation, which has been marked "Committee

Exhibit No. 14" for identification. And I will read the following extract from the minutes of that special meeting:

The judges thereupon verified the stock holders present in person, and inspected said certified list of stockholders, and of said proxies, and ascertained and reported to the meeting that there were present in person and by proxy stockholders entitled to vote at the meeting, as follows:

Present in person: None.

Present by proxy: 179,614 shares.

Total shares present in person and by proxy: 179,614.

Out of a total number of 260,512 shares of common stock of the corporation outstanding and entitled to vote, being the only issue of outstanding stock of the corporation.

It appearing that there were present in person and by proxy a majority of the stock outstanding entitled to vote, the chairman declared the meeting open for the transaction of business.

Now, I also want to read the following recital of attendance from the minutes of this special meeting of stockholders of August 1, 1933:

In the absence of the president and of the vice presidents of the Corporation, McKenney W. Edgerton, Esq., called the meeting to order, and was unanimously elected chairman of the meeting.

Mr. Cecil Page, secretary of the Corporation, acted as secretary of the meeting.

Dorothy M. Gaston and Joseph T. Van Pelt were unanimously appointed judges by the affirmative vote of the stockholders present and represented at the meeting, and they being present were duly sworn to faithfully perform their duties, and so forth.

Now, it would appear from those minutes that the only persons attending the meeting were Mr. Page, who held the proxies of the owners of 179,614 shares of the corporation.

Mr. BROWN. That is correct.

Mr. PECORA. There were no stockholders present in person.

Mr. BROWN. No, sir.

Mr. PECORA. Who is Mr. McKenney W. Edgerton, who presided at this meeting?

Mr. BROWN. I imagine they are employees of the Trust Co. in Baltimore, in whose office the meeting was held.

Mr. PECORA. Who were Dorothy M. Gaston and Joseph T. Van Pelt?

Mr. BROWN. They were also employees, I should think.

Mr. PECORA. So that virtually the organization at this stockholders' meeting—that is, the officers of the meeting—were dummies consisting of employees of the Trust Co. in Baltimore, Md.?

Mr. BROWN. I think the Corporation Trust Co. is the statutory agent or something in Maryland, but I am not sure.

Mr. PECORA. They are not employees of the American Commercial Alcohol Corporation, are they?

Mr. BROWN. No, sir; in no way connected with it.

Mr. PECORA. Nor are they stockholders of the American Commercial Alcohol Corporation?

Mr. BROWN. Not that I know of; no, sir.

Mr. PECORA. Now, Mr. Brown, I want to read further to you the following extract from the minutes of this special meeting of stockholders held on August 1, last;

The stockholders having examined the minute books heretofore read to the meeting and presented for their inspection, upon motion duly made and seconded a vote by ballot was taken on the following resolutions

Resolved that minutes of meetings of the Executive Committee of the Board of Directors of this Corporation held on April 12th and 26th, May 10th, 17th, 24th and 31st, June 7th, 14th, 21st, and 28th, July 5th, 14th and 19th, 1933, and the minutes of meetings of the Board of Directors of this Corporation held April 27th, May 2nd, May 4th, May 25th, May 31st, June 15th, June 29th, and June 30th, 1933, in the form presented to this meeting, be and the same hereby are in all respects approved, ratified, confirmed and adopted.

Resolved that any and all acts, transactions, and proceedings taken or authorized by the Board of Directors, Executive Committee, and officers of the Corporation, or ratified thereby, were, pursuant to previous authorization by the stockholders of the Corporation, or otherwise, as set forth in the minute books, presented to the meeting, including without in any way limiting the foregoing issuance of common stock of the Corporation in the acquisition of the stock of other corporations as subsidiaries, whether wholly owned or otherwise, hereby are in all respects approved, ratified, confirmed and adopted.

Were you in due course advised of the adoption of these resolutions at this special meeting of stockholders of August 1 last?

Mr. BROWN. Yes, sir.

Mr. PECORA. Now, as a matter of fact, didn't the situation presented by these minutes, or disclosed by them, reveal that at this special meeting of stockholders of your corporation, the meeting virtually consisted of Mr. Cecil Page, one of the members of the board of directors of the corporation, and an attorney, and its secretary?

Mr. BROWN. That is correct, representing the proxies.

Mr. PECORA. He represented the proxies?

Mr. BROWN. That is correct.

Mr. PECORA. And as the representative of the proxies to the number of 179,000-odd shares of stock, he unanimously voted for this resolution?

Mr. BROWN. That is correct; yes, sir.

Mr. PECORA. And this resolution is a blanket ratification of all the acts of the officers, the board of directors, members of the executive committee of the board of directors, of the corporation, is it not?

Mr. BROWN. That is correct. The intention of the meeting, however, was to provide for the increase in the authorized capital stock, because at that time, as you will perhaps remember, there were all sorts of things in the air, so to speak, involving the acquisition of additional properties.

Mr. PECORA. Aren't you overlooking another important intention or purpose of the meeting, namely, to ratify the acts of the officers, directors, and members of the executive committee of the board?

Mr. BROWN. No; all of the matter prepared in connection with that meeting, and so forth, were prepared by counsel.

Mr. PECORA. It was one purpose of this special meeting also, wasn't it, to have the stockholders ratify all the acts of the officers, directors, and members of the executive committee of the board of directors of the corporation?

Mr. BROWN. Yes; and I think that is usual at these meetings.

Mr. PECORA. Now, the specific acts of the officers and directors and the executive committee of the board, the ratification of which was sought from the stockholders at this special meeting, had to do, among other things, with those corporate acts that you testified to before this committee last week and this morning with respect to Maister Laboratories, Inc., and Noxon, Inc., were they not?

Mr. BROWN. Yes, sir.



Mr. PECORA. Now, in the notice that was sent to stockholders in the form authorized by the board of directors of your corporation at this meeting of June 30 last, I notice there is no statement or information conveyed to stockholders as to what those acts were that were to be ratified at this special meeting of stockholders.

Mr. BROWN. Well, I should assume that the stockholders were notified. I haven't the records that you have there, and I don't know what letters or anything else might have been sent out on that matter.

Mr. PECORA. Are you advancing that statement seriously as a suggestion that possibly they were notified of the nature of those acts by letter or otherwise?

Mr. BROWN. No; but as I say, all those things are handled by counsel, and I assume they were taken care of properly.

Mr. PECORA. Whether they are handled by counsel or not, the effectuation of these things is by the formal act of the board of directors of the corporation.

Mr. BROWN. That is right.

Mr. PECORA. And you were the chairman of the board.

Mr. BROWN. That is correct.

Mr. PECORA. You are not professing ignorance of the kind of notice that was sent to stockholders for this special meeting, are you?

Mr. BROWN. No, sir.

Mr. PECORA. I show you the insertion of a printed letter in the minute book of the board of directors of your corporation, which is addressed to stockholders, and bears date July 10, 1933, signed by Richard H. Grimm as president of the corporation and by yourself as chairman of the board. Will you look at it and tell me if that is a copy of a printed letter sent to stockholders in connection with or at the same time as the printed notice for the special meeting called originally for July 21 last.

Mr. BROWN (after looking at the paper). Yes, sir.

Mr. PECORA. Now, do you know of any other information that was ever given or conveyed to your stockholders by the corporation, or by anyone in behalf of the corporation, with regard to the matters set forth in this letter of July 10, 1933?

Mr. BROWN. No, sir.

Mr. PECORA. I mean the one that you have just identified, and I mean other than that which is contained in this letter.

Mr. BROWN. No, sir.

Mr. PECORA. So it is safe to say that the only information the stockholders generally were given by the officers and directors of the company with regard to certain of the acts which the board desired to have the stockholders approve was that contained in this letter?

Mr. BROWN. I think that is correct.

Mr. PECORA. I will read the letter into the record. It is a printed form letter.

AMERICAN COMMERCIAL ALCOHOL CORPORATION,

NEW YORK, N.Y., July 10, 1933.

*To the Stockholders:*

Since the annual meeting of your company held in April, business conditions have been moving with unanticipated rapidity, making it desirable to bring stockholders' information to date by this general letter.

We are seriously considering the production of medicinal and other spirituous liquors in the near future as permitted by existing laws, and the anticipated early repeal of the eighteenth amendment, and we are led to believe we should take steps now to supply what will undoubtedly be a tremendous demand for whisky and for high-grade cologne spirits which are used in rectifying whiskies.

Your plant at Pekin, Ill., formerly used entirely for whisky and cologne spirits, is in good condition and ready to resume immediately the manufacture of such liquors, in order to be in position to meet the expected demand, your officers and directors feel that the authorized common stock should be increased to 500,000 shares.

While this stock would be available for any proper corporate purpose, it is anticipated that it will be used, is deemed necessary or advisable, by your directors to acquire, by contract or purchase, other properties or stocks, or the control or ownership of companies that would be helpful in enabling your company to prepare itself completely to meet the expected requirements.

Accordingly notice of a special stockholders' meeting to be held at Baltimore, Md., July 21, 1933, is given, to increase the authorized common share capital from 375,000 to 500,000 shares, and to make certain changes in the bylaws as recommended by the board of directors, together with proxy to be signed and returned by you, if you are unable to attend in person, are enclosed.

The notice of meeting also refers to the acquisition of the stock of other corporations as subsidiaries. A substantial part of the problem of the management of your company lies in finding new uses or outlets for its production of alcohol and its by-products.

For the purpose of increasing sales of alcohol your company has obtained more than 65 percent of the stock of Noxon, Inc., which now has processes and products which your board of directors believe of real value. There are also included the rights to new agricultural and horticultural plant sprays which control or destroy a great number of plant insects without being poisonous to human beings. Alcohol enters into the composition of these products, some of them to the extent of 75 percent of their volume.

With improvements of processes and products contemplated to be made by the research laboratory of your company, and with the exclusive marketing relations of your company over the country, it is expected that their sales and the demand for them will be greatly increased.

Maister Laboratories, Inc., a Maryland corporation, has also been acquired as a wholly owned subsidiary. That corporation is now the exclusive holder of processes for the production of items particularly rich in vitamins.

Each of the above companies has made a contract with your company under which they will purchase from this corporation all their needed supplies of materials for a period of years.

By agreement of purchase made May 6, 1933, and May 8, 1933, respectively, 10,000 shares of the common stock of your company were issued in exchange for 10,000 shares of the common stock of Maister Laboratories, Inc., the only shares then issued of the 25,000 authorized shares, and 15,000 shares of your company were issued for majority control and ownership of Noxon, Inc., your company receiving in exchange 2,700 shares of the preferred stock of Noxon, Inc., of the issue of 3,600 shares issued, and 3,900 of the 6,000 shares of common stock as authorized.

In view of the general banking situation, it was deemed important by your officers and directors to improve your company's financial condition by increasing its common capital. This was carried out by the approval of the stockholders which expired July 5, 1933.

Your business is continuing in a satisfactory manner.

Somewhat different merchandising plan has been pursued this year as compared to 1932, with the result that antifreeze-alcohol sales have been postponed until the latter part of this year rather than attempt to move this material in the month of June as heretofore.

It is hoped you will appear in person at the special meeting, or return your proxy, so that action can be had with your consent.

Respectfully yours,

RICHARD H. GRIMM,  
*President.*  
RUSSELL R. BROWN,  
*Chairman of the board.*

Mr. Brown, this constitutes all the specific information given to the stockholders?

Mr. BROWN. Yes, sir.

Mr. PECORA. Regarding those acts and transactions of the corporation?

Mr. BROWN. Yes, sir.

Mr. PECORA. There was nothing told to the stockholders in this letter, if you will notice, of that action taken by the board which authorized the creation of an underwriting syndicate to underwrite an issue of forty-and-odd thousand shares of capital common stock of the company that were offered to stockholders and subscribed for by the then-existing stockholders, was there?

Mr. BROWN. No, sir.

Mr. PECORA. There was nothing told to stockholders about the secret interest that you and other officers and directors of the company had in that underwriting agreement, was there?

Mr. BROWN. No, sir.

Mr. PECORA. There was nothing told to stockholders with regard to the actual assets or the value of the assets of either Maister Laboratories, Inc., or Noxon, Inc., was there?

Mr. BROWN. No, sir.

Mr. PECORA. There was nothing told to stockholders in any way, shape, or form that notified or informed them that in the organization of Maister Laboratories, Inc., and Noxon, Inc., the American Commercial Alcohol Corporation dealt with two dummies of your selection, was there?

Mr. BROWN. No, sir.

Mr. PECORA. And the stockholders were not in any way informed of the fact of the giving of this option to Thomas E. Bragg of 25,000 shares of the capital common stock of the company at \$18 a share, were they?

Mr. BROWN. No, sir.

Mr. PECORA. Or the fact that you and other officers and directors of the company were secret participants with Bragg in the pool that was organized to operate under that option?

Mr. BROWN. No, sir.

Mr. PECORA. And yet it was expected that those stockholders would give their proxies to the very same officers and directors who were associated with you in that underwriting agreement and in that Bragg syndicate account?

Mr. BROWN. Yes, sir.

Mr. PECORA. And vote approval of all the acts of those same officers and directors?

Mr. BROWN. That is correct; yes, sir.

Mr. PECORA. Do you think that is a species of fair dealing with the stockholders of the company, Mr. Brown?

Mr. BROWN. Well, I assume, if I had the thing to do over again under the same conditions, I would probably do it. I think there is a great deal to be——

Mr. PECORA (interposing). You say you would probably do it over again?

Mr. BROWN. I mean under the same conditions, where the company needed financial assistance, as it did need it then. I think there was



a great deal of merit to the consideration of other actions and other conditions.

Mr. PECORA. Well, now, if you had the same thing to do over again, you would do it in precisely the same way that those things were done; is that what you say now?

Mr. BROWN. No. But if financial conditions, or the same conditions, existed, whereby this company was, as at that time, in bad financial shape, we might have to go ahead and use unusual and abnormal methods. But under ordinary conditions I should not do that; no, sir.

Mr. PECORA. Well, why, when you sought approval subsequently by the stockholders of the company of those acts and transactions, didn't you give the stockholders full knowledge of what those acts and transactions were, so that they might give their approval in an intelligent manner, with full knowledge of the actual facts?

Mr. BROWN. I assume that should be done.

Mr. PECORA. What did you say?

Mr. BROWN. I assume that should be done.

Mr. PECORA. You assumed that that was done?

Mr. BROWN. I say, I assume that should be done.

Mr. PECORA. Then why wasn't it done?

Mr. BROWN. I don't know.

Mr. PECORA. Who prepared that printed letter to stockholders I last read into the record?

Mr. BROWN. I think Mr. Grimm and I did.

Mr. PECORA. Well, then, there was nothing to have prevented you in the preparation of that letter from disclosing full information to the stockholders.

Mr. BROWN. No, sir.

Mr. PECORA. Well, did you feel that it was necessary to have your stockholders give their blanket approval to all those acts and transactions undertaken in behalf of the corporation by its officers and directors?

Mr. BROWN. I assumed that all those documents having been prepared by counsel, in connection with proxies and all that stuff, that they put it up in the usual form.

Mr. PECORA. Are you familiar with the provision of the pending bill in Congress, which has been called the "Fletcher-Rayburn bill," with respect to proxies of stockholders?

Mr. BROWN. No, sir. I have been so busy I haven't had a chance to read it. I am going to read it, though.

Mr. PECORA. Let me read the particular provision I have in mind in this bill to you. It is section 13 of the bill, under the caption "Proxies", and reads as follows:

#### PROXIES

SEC. 13. (a) It shall be unlawful for any person by the use of the mails or of any means or instrumentality of transportation or communication in interstate commerce or of any facility of any national securities exchange or otherwise to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security registered on any national securities exchange unless at such time prior to such solicitation as the Commission shall by rule or regulation prescribe the persons named to exercise such proxy, consent, or authorization shall file with the Commission a statement, which shall be included as a part of every such solicitation, setting forth

the purposes of the proxy, consent, or authorization, the persons to exercise it, their relations to and interest in the security, the names and addresses of the persons from whom similar proxies, consents, or authorizations are being solicited, and such further information, and in such form and detail as the Commission may by rules and regulations prescribe in the public interest or for the protection of investors.

Have you any comment to make about that provision?

Mr. BROWN. No. I should like to read it if you will permit me. I could not follow you.

Mr. PECORA. All right. It is in that printed copy of the bill I am now handing to you.

Mr. BROWN (after reading the section). No. In general it seems all right to me, as long as you do not have to take all the minute books, general ledgers, and everything to the stockholders.

Mr. PECORA. Well, if some such provision as this had been enacted and was in force and effect at the time of the solicitation of these proxies for your special meeting on July 21 last it is quite probable that the stockholders would have obtained full information concerning the acts that were under consideration and that they were being called upon to ratify by the giving of their proxies, I take it.

Mr. BROWN. That is correct.

Mr. PECORA. Now, Mr. Brown, was any effort ever made to register with the Federal Trade Commission under the provisions of the Securities Act of 1933, the 25,000 shares of capital common stock of your corporation to list which the company made application to the New York Stock Exchange under date of July 19 last?

Mr. BROWN. I think the question was under discussion by counsel with the Federal Trade Commission for some time. And I think the opinion of counsel originally was that registration was not necessary, but they were instructed to go ahead and find out just what the requirements of the Commission were. That took a considerable period of time. I think finally they gave an opinion that registration was not necessary, if my memory serves me.

Mr. PECORA. Don't you recall that I read into the record this morning in connection with my examination of Mr. Frank Altschul, the minutes of the proceedings of the hearing before the stock-list committee of the New York Stock Exchange, which was attended by you in behalf of your corporation, as well as by Mr. Egginton and another gentleman acting as counsel for the corporation?

Mr. BROWN. Mr. Heiss.

Mr. PECORA. And don't you recall that at that hearing before the stock-list committee both you and your counsel stated that in accordance with advice given to your corporation by your Washington attorneys, this additional issue of stock would have to be registered with the Federal Trade Commission, and that the corporation was going to have appropriate action taken to that end?

Mr. BROWN. I remember something about it, but I think you are wrong on that point of the opinion of the Washington attorneys, although I may be wrong about it. But I think Larkin, Rathbone & Perry took that matter up with the Federal Trade Commission themselves. It seems to be that Mr. Egginton expressed the opinion that registration was not necessary.

Mr. PECORA. Yes; but he also stated to the stock-list committee at that hearing on July 24, last, that although it was his opinion, other

attorneys, the Washington correspondents of that firm, had been in communication with the Federal Trade Commission, had discussed the matter with the Federal Trade Commission, and had rendered an opinion that registration was necessary, although Mr. Egginton personally did not agree with that opinion.

Mr. BROWN. I think that is correct. I assume as a result of his opinion he felt the matter should be taken up further, and apparently it was taken up further by counsel, and it extended over a period of time.

Mr. PECORA. At that hearing before the stock list committee the statement was specifically made that although Mr. Egginton did not agree with the opinion of Washington counsel, nevertheless the opinion of Washington counsel was going to be followed by registration of the additional issue of stock.

Mr. BROWN. I think, as I remember it, the discussion centered around the fact that the registration would be filed there if necessary.

Mr. PECORA. Would you say that the reason why no application was made by your corporation to register those additional 25,000 shares under the Securities Act was because of the provisions of that act which required statements under oath concerning all the surrounding facts involved in the issuance of the proposed 25,000 additional shares?

Mr. BROWN. No; I think quite the contrary. As I have said to you, the business of the company came along in such good shape that we did not want to have out any more shares of stock than absolutely necessary. We were able to finance these transactions by cash.

Mr. PECORA. As recently as last December, according to the evidence introduced this morning, in your hearing, your corporation caused to be filed supplemental statements with the stock-list committee of the New York Stock Exchange with reference to this issue of the additional 25,000 shares. Isn't that so?

Mr. BROWN. That is correct, but, as I said to you, that came about during this terrible rush in the business, when we were working nights, Sundays, and holidays. I was spending a great deal of my time out at the plant so as to be sure the merchandise was getting out. That just went out of the office, and should not have gone.

Mr. PECORA. Mr. Page is too careful to slip up on a thing like that, is he not?

Mr. BROWN. It was my carelessness, perhaps, in not advising him at the time of the decision Mr. Grimm and I had arrived at, that the deal would not go through because we could handle it by cash. Our business started out, and the first really good earnings came along in the month of October, and the indications of the contracts that were signed for future deliveries were a real indication to us that we could handle the whole transaction by cash.

Mr. PECORA. Has there been any formal corporate action taken by the board of your corporation terminating those negotiations and abandoning them completely?

Mr. BROWN. The meeting of the board was to be held on the 15th of February. I was down there, and so the meeting has been adjourned, and it is going to be held, and that action is to be taken as



soon as all the legal mechanics have been complied with. I assume that will be done sometime this week.

Mr. PECORA. Was any action ever taken by the board, or by you as chairman of the board, or by any of the officers of the company, notifying the New York Stock Exchange that the company does not propose to make any issue of that 25,000 additional shares?

Mr. BROWN. No; I do not think so; not that I know of. It should have been done, but the thing we were wrapped up in mostly was in getting the material out and getting the money in. I just overlooked it.

Mr. PECORA. Mr. Brown, you have indicated to me that you wanted to make some correction in the testimony heretofore given by you with regard to any salary or compensation paid by the corporation to Mr. Kies as chairman of the executive committee of its board of directors.

Mr. BROWN. Yes. I had an opportunity to read only part of this testimony, and glancing through, I caught a question in connection with Mr. Kies' compensation. My answer was "No." My answer should have been that "Mr. Kies is compensated at the rate of \$6,000 per annum." I understood your question at the time—you were speaking about the adjustment of other compensation, and I hurriedly thought you asked whether Mr. Kies' compensation was adjusted. Instead of that, your question was "Is Mr. Kies paid compensation?" That is \$6,000 per annum.

Mr. PECORA. I think that is all.

(Witness excused.)

Mr. PECORA. Mr. Mason Day.

**TESTIMONY OF HENRY MASON DAY, SYOSSET, LONG ISLAND,  
MEMBER OF THE FIRM OF REDMOND & CO., NEW YORK**

The CHAIRMAN. Mr. Day, you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth regarding the matters now under investigation by the committee. So help you God.

Mr. DAY. I do.

May I have the privilege, Mr. Pecora, of having the gentleman who keeps the records of these things sit beside me?

Mr. PECORA. Yes. Will you please give your full name and address?

Mr. DAY. Mr. Henry Mason Day; Syosset, Long Island.

Mr. PECORA. Mr. Chairman, the evidence which I am now about to submit to the committee relates to the market activities of certain groups in a security known as the "common stock" of the Libby-Owens-Ford Glass Co., which is commonly referred to as one of the repeal or alcohol stocks. I have already stated to this committee that early last August I requested the president of the New York Stock Exchange to make an investigation, through the facilities and powers of the exchange, into the market activities of these so-called alcohol stocks during the period covering the months of May, June, and July of last year. Such an examination or investigation was made, and the results thereof were reported to me by Mr. Whitney, of the stock exchange, and the report submitted by

the examiners of the exchange with respect to these market activities tended to indicate that there was no manipulative activities in those stocks during last summer.

I have already presented to the committee the evidence which we have gathered with respect to activities or trading in the stock of the American Commercial Alcohol Corporation, which, to my mind, strongly establishes the fact that there were many manipulative devices, processes, and activities in the stock of that company last summer.

Mr. DAY, what is your business or occupation?

Mr. DAY. Stock broker.

Mr. PECORA. Are you a member of any stock exchange?

Mr. DAY. Yes, sir.

Mr. PECORA. Which one?

Mr. DAY. New York. I am not a member. I am a member of a firm that is a member of the New York Stock Exchange.

Mr. PECORA. What is that firm?

Mr. DAY. Redmond & Co.

Mr. PECORA. How long have you been a member of the firm of Redmond & Co.?

Mr. DAY. Since November 1, 1931.

Mr. PECORA. Have you been an active member of the firm since that time?

Mr. DAY. Yes, sir.

Mr. PECORA. Who are the other partners in the firm?

Mr. DAY. Arthur L. Goldsmith, Allan McLane, Jr., A. Perry Osborn, H. F. Osborn, Jr., Daniel T. Pierce, Jr., E. B. Shryver, and J. B. Taylor. Do you want the special partners?

Mr. PECORA. Yes.

Mr. DAY. F. Q. Brown, L. W. James, E. E. Moore and George H. Pendleton.

Mr. PECORA. Who is the floor member of the exchange in that firms?

Mr. DAY. Mr. Allan McLane, Jr., and Mr. Daniel T. Pierce, Jr.

Mr. PECORA. Does that firm hold any membership in any other stock exchange than the New York Stock Exchange?

Mr. DAY. The New York Curb Exchange.

Mr. PECORA. Any other?

Mr. DAY. No, sir; I do not think so.

Mr. PECORA. Does it hold a membership in any commodities exchange?

Mr. DAY. I do not think it does, sir.

Mr. PECORA. Prior to your becoming a member of the firm of Redmond & Co., what was your business or occupation?

Mr. DAY. I was in the oil business.

Mr. PECORA. What do you mean by that?

Mr. DAY. Well, I was an executive in the oil business.

Mr. PECORA. What was the name of the company?

Mr. DAY. At that time, the Sinclair Oil Co.

Mr. PECORA. Had that been your business for quite a number of years?

Mr. DAY. That particular position? No, sir.

Mr. PECORA. Had you been connected with the oil company for a number of years prior to November 1931?

Mr. DAY. I do not want to be technical. I think I was there 3 or 4 years. I don't remember that. Prior to that I was with the Barnsdall Oil Co.

Mr. PECORA. Did you hear the testimony given before this committee yesterday by a witness named Charles C. Wright?

Mr. DAY. Part of it, sir.

Mr. PECORA. Did you hear any portion of his testimony in which reference was made to a number of options on certain stocks issued by different corporations which had been given either to Mr. Wright or to his stock brokerage firm of Wright & Sexton by the firm of Redmond & Co.?

Mr. DAY. Yes, sir. I think I heard two brought up.

Mr. PECORA. Which two were they?

Mr. DAY. I think there was one in National Distillers. I am not sure about the other. I know approximately, because I read the testimony yesterday afternoon, and I am confused in my mind whether he said it in the morning or in the afternoon.

Mr. PECORA. During the year 1933, and particularly during the months of May, June, and July 1933, did Redmond & Co., have any options covering the stock of any of the so-called "alcohol companies or repeal stocks"?

Mr. DAY. Yes, sir.

Mr. PECORA. How many such options did it have last summer?

Mr. DAY. I do not know, sir. May I refer to the records?

Mr. PECORA. Surely. You are free to refer to any records available to you, Mr. Day, at any time in the course of your examination.

Mr. DAY (after conferring with an associate). I presume, from your former statement, that you are referring to the so-called "Repeal stocks", and that you mean Libbey-Owens-Ford.

Mr. PECORA. That would be one of them.

Mr. DAY. That is all we have.

Mr. PECORA. Did you have more than one option covering the stock of the Libbey-Owens-Ford Glass Co. last summer? When I say you, I refer, of course, to the firm, Redmond & Co.

Mr. DAY. Yes, sir; I understand. There was one under date of June 1.

Mr. PECORA. I show you what purports to be a photostatic reproduction of such option dated June 1, 1933. Will you look at it and tell me if you recognize it as a true and correct copy of the option to which you have just referred?

Mr. DAY. I believe that is correct.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Copy of option, June 1, 1933, Libbey-Owens Securities Corporation to Redmond & Co., was received in evidence, marked "Committee's Exhibit No. 67", Feb. 21, 1934, and the same was subsequently read into the record by Mr. Pecora.)

Mr. PECORA. The document received in evidence as "Committee's Exhibit 67" reads as follows [reading]:



JUNE 1, 1933.

REDMOND &amp; Co.,

*48 Wall Street, New York City.*

DEAR SIRS: The undersigned, Libbey-Owens Securities Corporation, a Delaware corporation, confirms its agreement as follows:

1. The undersigned has sold, and you and others associated with you on certain terms have purchased from the undersigned, 65,000 shares of common stock without par value of Libbey-Owens-Ford Glass Company, an Ohio corporation, at the price of \$26.50 per share flat. Delivery of the certificates for such shares and payment therefor shall be made in New York City at the office of The Guaranty Trust Company of New York, 140 Broadway, on or before 3 o'clock p.m., (D.S.T.), June 5, 1933.

2. In consideration of your agreeing to purchase as aforesaid the above 65,000 shares, the undersigned agrees that it will sell, or cause to be sold, to you and associates, at your option, at any time and from time to time on or before 3 o'clock P. M. (D.S.T.), July 3, 1933, all or any part of 20,000 additional shares of such common stock without par value of Libbey-Owens-Ford Glass Company, at the price of \$27.50 per share flat.

3. In case you shall purchase the 20,000 additional shares referred to in paragraph 2, the undersigned will sell, or cause to be sold, to you and associates, at your option, at any time and from time to time on or before 3 o'clock P.M. (D.S.T.), August 1, 1933, all or any part of 20,000 additional shares of such common stock without par value of Libbey-Owens-Ford Glass Company, at the price of \$28.50 per share flat.

4. In case you shall purchase the 40,000 additional shares referred to in paragraphs 2 and 3, the undersigned will sell, or cause to be sold, to you and associates, at your option, at any time and from time to time on or before 3 o'clock p.m. (D.S.T.), September 1, 1933, all or any part of 20,000 additional shares of such common stock without par value of Libbey-Owen-Ford Glass Company, at \$30.50 per share flat.

5. In case you shall purchase the 60,000 additional shares referred to in paragraphs 2, 3 and 4, the undersigned will sell, or cause to be sold, to you and associates, at your option, at any time and from time to time on or before 3 o'clock p.m. (D.S.T.), October 2, 1933, all or any part of 20,000 additional shares of such common stock without par value of Libbey-Owen-Ford Glass Company, at \$30.50 per share flat.

6. Redmond & Co. may exercise any of the options referred to in paragraphs 2, 3 4 and 5 to purchase the additional shares of common stock without par value of Libbey-Owens-Ford Glass Company mentioned therein from time to time by giving one days' notice in writing of your election to purchase such shares to the undersigned, in care of Mr. J. Donald Duncan, 50 Broadway, New York City, and thereupon the undersigned will deliver or cause to be delivered to you the certificates for such shares at said office of Guaranty Trust Company of New York on the day following such notice against payment therefor.

7. It is understood that the undersigned shall be entitled to receive any dividends which may be declared upon the shares of common stock without par value of Libbey-Owens-Ford Glass Company covered by any of the above mentioned options, which shall be payable to holders of record of a date prior to the purchase by you of such shares, and that you shall be entitled to receive all such dividends which shall be payable to holders of record of a date subsequent to the purchase by you of such shares.

8. All shares of common stock without par value of Libbey-Owens-Ford Glass Company referred to in paragraphs 1 to 5 inclusive hereof which shall be purchased by you are and shall be listed on the New York Stock Exchange. The certificates for all such shares purchased by you hereunder are to be delivered to you in negotiable form for delivery on the New York Stock Exchange, and the undersigned agrees to pay all requisite stock transfer taxes payable in connection with the sale of any of such shares to you hereunder. All payments for shares purchased by you hereunder are to be made in New York funds, by certified check.

9. The undersigned agrees that it will not, so long as any of the above options shall be in effect, sell any other shares of common stock without par

value of Libbey-Owens-Ford Glass Company which it may own, except at a price in excess of \$35.00 per share.

If the foregoing is in accordance with your understanding, will you please confirm your agreement therewith.

Yours very truly,

LIBBEY-OWENS SECURITIES CORPORATION  
By GORDON AUCHINCLOSS (signed)  
*President.*

Attest:

J. DONALD DUNCAN (signed)  
*Secretary.*

JUNE 1, 1933.

LIBBEY-OWENS SECURITIES CORPORATION  
15 Exchange Place, Jersey City, New Jersey.

DEAR SIRS: The undersigned hereby confirm their agreement with you in accordance with the terms of your foregoing letter dated June 1, 1933.

Yours very truly,

REDMOND & Co.  
By PERRY OSBORN (signed).

Now, Mr. Day, this letter refers to Redmond & Co. having some associates in this option. Who were those associates?

Mr. DAY. The Hyva Corporation; Lehmann Bros.; Bell & Beckwith; Walter P. Chrysler; Joseph P. Kennedy; Kuhn Loeb & Co.; Wright & Sexton; Redmond & Co.

Mr. PECORA. What kind of a corporation is the Hyva Corporation?

Mr. DAY. I do not know, sir.

Mr. PECORA. Do you know who its officers are?

Mr. DAY. No, sir.

Mr. PECORA. Do you know anything at all about the corporation?

Mr. DAY. I have a recollection that Mr. Sinclair is interested in the Hyva Corporation.

Mr. PECORA. Is it a so-called "private corporation" of Mr. Sinclair's?

Mr. DAY. I know nothing about it.

Mr. PECORA. Who is Joseph P. Kennedy?

Mr. DAY. Mr. Kennedy is a capitalist, or well-known private citizen.

Mr. PECORA. Do you know what his business is?

Mr. DAY. I do not think he is in business.

Mr. PECORA. When you say he is a capitalist, does that cover your understanding of what his business is?

Mr. DAY. Well, I do not know. My understanding of a capitalist is somebody who has considerable funds and does not have to work.

Mr. PECORA. I am not a capitalist.

Mr. DAY. Neither am I, sir. I have no objection to being.

Mr. PECORA. Who are Bell & Beckwith?

Mr. DAY. They are a Toledo Stock Exchange house.

Mr. PECORA. With membership on any stock exchange?

Mr. DAY. I believe on the New York Stock Exchange.

Mr. PECORA. They have their principal office in Toledo, Ohio?

Mr. DAY. That is my understanding.

Mr. PECORA. Who are Lehmann Bros.?

Mr. DAY. Lehmann Bros. are a stock-exchange house; a banking house.

Mr. PECORA. In New York City?

Mr. DAY. Yes, sir.

Mr. PECORA. Who is W. P. Chrysler?

Mr. DAY. I understand Mr. Chrysler is in the automobile business.

Mr. PECORA. I think I have heard that. Kuhn, Loeb & Co. we know something about, because one of the partners of the firm—in fact several of the partners of the firm—have been witnesses before this committee. Wright & Sexton we know something about through the testimony we heard yesterday. Who organized this group or syndicate that got the option that has been offered in evidence here in the name of Redmond & Co.?

Mr. DAY. My recollection is that it was organized by Kuhn-Loeb.

Mr. PECORA. Do you know which particular member of that firm actively dealt with the organization of this group or syndicate?

Mr. DAY. I think Mr. Elisha Walker.

Mr. PECORA. Who managed whatever operations or transactions were conducted in behalf of this group or syndicate under this option?

Mr. DAY. Redmond & Co.

Mr. PECORA. What particular member of that firm had charge of those transactions or operations?

Mr. DAY. I suppose I had the most to do with it—not all.

Mr. PECORA. What was the purpose of this group or syndicate in obtaining this option and operating under it?

Mr. DAY. To distribute the stock and make some money.

Mr. PECORA. The stock was listed on the New York Stock Exchange at the time.

Mr. DAY. Yes, sir; that is my understanding.

Mr. PECORA. Have you a copy of any agreement evidencing the respective rights and interests of the different members or participants in this group or syndicate, Mr. Day?

Mr. DAY. I have a memorandum here from which I gave you the names of the members. I think it is the same one, probably, which you hold, showing a 5 percent interest for the Hyva Corporation—I am I answering your question?

Mr. PECORA. You do not mean 5 percent interest, do you?

Mr. DAY. I mean 5/65ths; Lermann Brothers, 6½/65ths; Bell & Beckwith, 10/65ths; Walter P. Chrysler, 5/65ths; Joseph P. Kennedy, 10/65ths; Kuhn-Loeb & Co., 13½/65ths; Wright & Sexton, 5/65ths; Redmond & Co., 10/65ths.

Mr. PECORA. Was there not a formal agreement which defined the participations, rights, interests, and liabilities of the various members of this syndicate or group?

Mr. DAY. Unfortunately, Mr. Pecora, I have not that with me.

Mr. PECORA. There was such an agreement, however?

Mr. DAY. There was such an agreement, however. There was a letter sent to each one defining it.

Mr. PECORA. Have you a copy of any such letter?

Mr. DAY. I am afraid that they did not bring me a letter on that, but I have a subsequent letter, I think, on the second one. I think this is the second one [handing paper to Mr. Pecora].

Mr. PECORA. I notice, in the option agreement which has been offered in evidence and which has been marked "Committee's Ex-



hibit No. 67", the following provision, marked paragraph 9 [reading]:

The undersigned [meaning Libbey-Owens Securities Corporation] agrees that it will not, so long as any of the above options shall be in effect, sell any other shares of common stock without par value of Libbey-Owens-Ford Glass Co. which it may own, except at a price in excess of \$35 per share.

Mr. Day, what was the reason for the inclusion of that provision in this option?

Mr. DAY. Because, as I recollect, or as I was told, their holdings were very large, and if they were selling while this group was trying to constructively liquidate their block, their holdings would have made it so large, so impossible, at the same time, that a price of \$35 was fixed.

Mr. PECORA. In other words, it was designed to keep off the market, during the operations of the group or syndicate that was formed to constructively, as you have said, dispose of the shares covered by this option, such other shares of the stock as the Libbey-Owens Securities Co. owned?

Mr. DAY. I think that would be correct; yes, sir.

Mr. PECORA. I assume that that provision was put in there at the instance of the optionees.

Mr. DAY. Yes, sir.

Mr. PECORA. And in order to facilitate them in effectuating their purpose of disposing of this optioned stock at a profit to themselves?

Mr. DAY. Yes, sir.

Mr. PECORA. How was it contemplated by this group, or the managers of the group, namely, Redmond & Co., to dispose of the stock covered by this option?

Mr. DAY. On the market.

Mr. PECORA. That is, through trading in the open market?

Mr. DAY. Yes, sir.

Mr. PECORA. This group or syndicate really constituted a pool, did it not, to trade in this stock under this option?

Mr. DAY. The word "pool" has been used in reference to so many things—it was certainly a syndicate to distribute this stock.

Mr. PECORA. Such syndicates have commonly been called pools, have they not?

Mr. DAY. Yes, sir.

Mr. PECORA. And this is that kind of a syndicate?

Mr. DAY. Yes, sir.

Mr. PECORA. In connection with the purposes of this pool, to dispose of the stock covered by this option, was it intended that the pool should both buy and sell in its trading?

Mr. DAY. Yes, sir.

Mr. PECORA. Why was it necessary to buy and sell in order to enable the pool to dispose of this optioned stock at a profit?

Mr. DAY. To have a free market in the stock.

Mr. PECORA. Was not the market free?

Mr. DAY. There was practically no market in the stock.

Mr. PECORA. Was it an inactive market on June 1 last, when this option was obtained?

Mr. DAY. It was not an inactive market, but it was not a big market.

Mr. PECORA. And it was deemed necessary by the managers of the pool to have a big or active market in order to enable the pool to dispose of its optioned stock at a profit?

Mr. DAY. Yes.

Mr. PECORA. In other words the operations of the pool contemplated, among other things, buying and selling transactions in this stock so as to create at least an outward appearance of activity in the stock?

Mr. DAY. That was very largely left to the man who was operating it on the floor.

Mr. PECORA. Who was that man?

Mr. DAY. Mr. Charles Wright.

Mr. PECORA. Were the trades, including both buying and selling, conducted by the pool in its efforts to dispose of this option stock at a profit left to the discretion of Mr. Wright?

Mr. DAY. At times; yes, sir.

Mr. PECORA. And when those trades were not made in the exercise of his discretion in whose discretion were they made?

Mr. DAY. Well, when he made them they were always accepted.

Mr. PECORA. No; but when he did not make them whose discretion controlled the trades that were made by or in behalf of the pool?

Mr. DAY. Whoever happened at that particular time to be in charge of it or looking after it.

Mr. PECORA. Who other than Mr. Wright was ever in that position?

Mr. DAY. Well, I think—this is purely from recollection—Mr. Bliss.

Mr. PECORA. Mr. Frank E. Bliss?

Mr. DAY. Yes, sir.

Mr. PECORA. And did he handle many of these operations or trades?

Mr. DAY. He handled some.

Mr. PECORA. Who handled the greater part of it?

Mr. DAY. Charlie Wright.

Mr. PECORA. Were any other brokers or floor members of the stock exchange used in executing the orders or putting through the trades in behalf of this pool?

Mr. DAY. I think undoubtedly there were others.

Mr. PECORA. Who were the others?

Mr. DAY. I think Mr. Lansburgh was.

Mr. PECORA. Lansburgh?

Mr. DAY. Yes.

Mr. PECORA. Do you know what firm he is connected with?

Mr. DAY. Lansburgh & Co.

Mr. PECORA. What other brokers were used?

Mr. DAY. Those are the principal ones that I can think of.

Mr. PECORA. Why was it necessary to use more than one brokerage firm or more than one floor trader or floor member?

Mr. DAY. Well, very often Charlie Wright, who I would ordinarily look to to look after the floor operation, would be away.

Mr. PECORA. In your experience and activities as a stockbroker, Mr. Day, have you heard before the term "jiggling" used in connection with stock market tradings and activities?

Mr. DAY. Yes, sir.

Mr. PECORA. And what does that term signify to you?

Mr. DAY. Trading [a pause] in an entirely un—in a very big way.

Mr. PECORA. Is that the kind of trading indulged in in behalf of this pool?

Mr. DAY. Not as generally would be considered jiggling as I understand it.

Mr. PECORA. Now, what is fully comprehended by you in the use of the term "jiggling" as applied to stock market trading or activity, Mr. Day?

Mr. DAY. In the limited time I have been there and limited knowledge that I have, I would say taking something that was perfectly dead and just kicking it all over the place.

Mr. PECORA. That is, galvanizing it into life by buying and selling?

Mr. DAY. Yes, sir. In great big spreads.

Mr. PECORA. Was this stock at the time you took this option almost dead so far as the market trades were concerned?

Mr. DAY. No, it was an inactive stock.

Mr. PECORA. An inactive stock as distinguished from a dead stock?

Mr. DAY. Yes, sir; and an inactive stock as distinguished from Steel or Can or others.

Mr. PECORA. For which there is always an active market?

Mr. DAY. Yes.

Mr. PECORA. Standard stocks for which there is always an active market?

Mr. DAY. Yes, sir.

Mr. PECORA. As a result of the activities of this pool, Mr. Day, would you say that the stock became much more active?

Mr. DAY. Yes, sir.

Mr. PECORA. Not active enough to amount to a jiggle, though?

Mr. DAY. No, sir.

Mr. PECORA. Do you know the volume of trading done by or at the instance of this pool in this stock under this option?

Mr. DAY. The approximate number of shares?

Mr. PECORA. Yes.

Mr. DAY. I think I have got it about. I think it is on that piece of paper there. About a million shares.

Mr. PECORA. That is during what period of time?

Mr. DAY. June to October.

Mr. PECORA. That is a period of about 4 months?

Mr. DAY. Yes, sir; approximately 4 months.

Mr. PECORA. Do you know what the total trading on the New York Stock Exchange was in the stock of Libbey-Owens-Ford Glass Co. during that period?

Mr. DAY. I do not, sir.

Mr. PECORA. Do you know what proportion of the total trading represented the transactions in behalf of this pool?

Mr. DAY. No, sir.

Mr. PECORA. How many different accounts were handled by this pool in the course of its operations?

Mr. DAY. It was all one account, but it was broken up into six parts.



Mr. PECORA. And how were those accounts designated?

Mr. DAY. L.O.F. Syndicate, syndicate nos. 1, 2, 3, 4, 5, and 6.

Mr. PECORA. Each of these accounts represented the operations of this pool or syndicate?

Mr. DAY. Yes, sir.

Mr. PECORA. In account no. 1 of that syndicate, do you know how many shares were bought and how many shares were sold for that account?

Mr. DAY. There were 81,500 bought and 81,500 sold, according to the record handed to me.

Mr. PECORA. You are not referring to market trading now, are you, to the extent of 81,500 shares bought and sold?

(Mr. DAY conferred with associates, but made no response.)

Mr. PECORA. Those 81,500 shares to which you have just referred—

Mr. DAY. Yes, sir.

Mr. PECORA (continuing). Relate to the shares that were bought from the optionor?

Mr. DAY. Yes, sir.

Mr. PECORA. Isn't that so?

Mr. DAY (after conferring with associates). The amount of shares, so Mr. Gibson tells me, of the bought side is included in the 81,500 shares, which I think is what your statement was.

Mr. PECORA. Included in the 81,500 shares both bought and sold in account no. 1 of this syndicate—

Mr. DAY. Yes, sir.

Mr. PECORA (continuing). Were the 65,000 shares as to which Redmond & Co., in behalf of itself and its pool associates, made a firm commitment to purchase from the Libbey-Owens Securities Corporation in this agreement of June 1, 1933, at a flat price of \$26.50 per share.

Mr. DAY. Yes.

Mr. PECORA. Isn't that so?

Mr. DAY. Yes.

Mr. PECORA. How many shares were traded in under account no. 1 of the syndicate?

Mr. DAY. Twenty-six thousand nine hundred bought and 26,900 sold, according to this statement.

Mr. PECORA. And what was the amount of trading done by the pool under account no. 2?

Mr. DAY. Bought 104,723 and sold 104,723.

Mr. PECORA. And what was the amount of trading done under account no. 3 of the syndicate?

Mr. DAY. Two hundred sixteen thousand seven hundred bought and 216,700 sold.

Mr. PECORA. And what was the extent of the trading under account no. 4 belonging to the syndicate?

Mr. DAY. Forty-eight thousand seven hundred bought and 48,700 sold.

Mr. PECORA. And in account no. 5?

Mr. DAY. Forty-one thousand one hundred bought and 41,100 sold.

Mr. PECORA. Account no. 6?

Mr. DAY. Five thousand four hundred bought and 5,400 sold.

Mr. PECORA. Do you know what the resultant profit, if any, was to this pool from this trading?

Mr. DAY. According to the statement it was \$395,238.12.

Mr. PECORA. And that was distributed among the various members of the pool in proportion to their respective participations?

Mr. DAY. That is right, sir.

Mr. PECORA. I show you a typewritten statement purporting to be a tabulation or compilation of the trading done for the account of this pool and the resultant profits. Do you recognize it to be a true and accurate statement or recapitulation thereof?

Mr. DAY. I recognize it as a copy of the one that was given to me by our auditor.

Mr. PECORA. And do you believe it to be accurate?

Mr. DAY. I have every reason to believe every statement he prepares is.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Tabulation of profits of Libbey-Owens-Ford Syndicate accounts was thereupon designated "Committee Exhibit No. 68, Feb. 21, 1934," and will appear in the record in full at the end of today's proceedings.)

Mr. PECORA. Operations of this pool, Mr. Day, were designed to create an agitation in the market in the shares of this stock so as to increase the activity in public trading, were they not?

Mr. DAY. The object of this pool was to distribute this stock at a profit.

Mr. PECORA. At a profit. And in order to do that it had to make an active market?

Mr. DAY. That was left to the floor operators.

Mr. PECORA. Yes; and that is what was done, wasn't it?

Mr. DAY. There was a great deal of buying and selling.

Mr. PECORA. By the pool?

Mr. DAY. Both.

Mr. PECORA. Yes; and for the purpose of helping to make the market more active?

Mr. DAY. For the purpose of distribution of stock of a security that was thought to be undivided.

Mr. PECORA. Didn't you say before that the market at the time this option was obtained under date of June 1, last, in Libbey-Owens-Ford Glass Co. stock was inactive?

Mr. DAY. Comparatively.

Mr. PECORA. And that buying and selling was indulged in by the pool under this option in order to create activity in the market so that the pool might thereby be enabled to distribute, as you call it, the stock it had under this option at a profit?

Mr. DAY. Yes, sir.

The CHAIRMAN. How was the stock quoted when the pool was formed? What was the quotation?

Mr. DAY. Senator, I don't remember exactly, but I think it was within a fraction or a point or something of that kind of the price at which this block of stock was purchased.

The CHAIRMAN. Do you remember what that was?

Mr. DAY. I think it was somewhere around 20. [Addressing an associate:] Have you it there? Around 27 or 27½. I don't know exactly.

The CHAIRMAN. What was the quotation when the pool was terminated?

Mr. DAY. I am just getting it from the record, sir.

(Mr. Day and associates examined records.)

Mr. DAY. I have not found the records yet exactly what it is. My recollection is that it was probably somewhere around 32½ or 33.

The CHAIRMAN. What was the course afterward?

Mr. DAY. What was the course? It went up, sir.

Mr. PECORA. What was the highest price it reached on the New York Stock Exchange during the period of the pool operation?

Mr. DAY. Approximately 37, as I remember it.

Mr. PECORA. And what date was that reached, do you remember? July 18, wasn't it?

Mr. DAY. I imagine it was somewhere around there.

Mr. PECORA. Do you know to what figure it had dropped by July 21?

Mr. DAY. Around 22.

Mr. PECORA. Around 21, wasn't it?

Mr. DAY. Well, 21. And at that time I bought on that decline, if my recollection serves me correct, approximately twenty-odd thousand shares.

Mr. PECORA. For your own individual account?

Mr. DAY. No, sir.

Mr. PECORA. For the account of the pool?

Mr. DAY. Yes, sir.

Mr. PECORA. All of which was subsequently distributed at higher prices, wasn't it?

Mr. DAY. Yes, sir. I hope so. I am not sure, but I think so.

The CHAIRMAN. Where is it now?

Mr. DAY. I bought it the other day, Senator, for my wife's investment trust and paid 41½ for it, sir. It is approximately in the neighborhood of 40 today, or I mean as of yesterday. The company was carefully studied, full analysis taken of it, its directors talked to. I know them personally. I believed that the company had a great future, which is apparently true.

Mr. PECORA. Do you know who the specialist was in this stock on the floor of the New York Stock Exchange during the life of this pool?

Mr. DAY. I have heard his name three or four times. I read it in the testimony last night. I don't know him.

Mr. PECORA. Was it a member of the firm of Hewitt, Lauderdale & Co.?

Mr. DAY. That I don't know, sir.

The CHAIRMAN. Does the company pay dividends now?

Mr. DAY. Yes, sir.

The CHAIRMAN. What dividends?

Mr. DAY. My recollection is that they are paying a dollar.

Mr. PECORA. Redmond & Co. issue market letters for the information of their customers, don't they?

Mr. DAY. Yes, sir.



Mr. PECORA. During the period of the activities of this pool were market letters issued recommending this stock by Redmond & Co. to its customers?

Mr. DAY. I could not answer that, sir. I don't know.

Mr. PECORA. Is there anyone of your associates here that can answer it?

Mr. DAY. That I don't know.

Mr. PECORA. Well, can't you inquire?

Mr. PERRY OSBORN. I don't think we did.

Mr. DAY. I have no recollection.

Mr. PECORA. Will you check that up?

Mr. DAY. With pleasure.

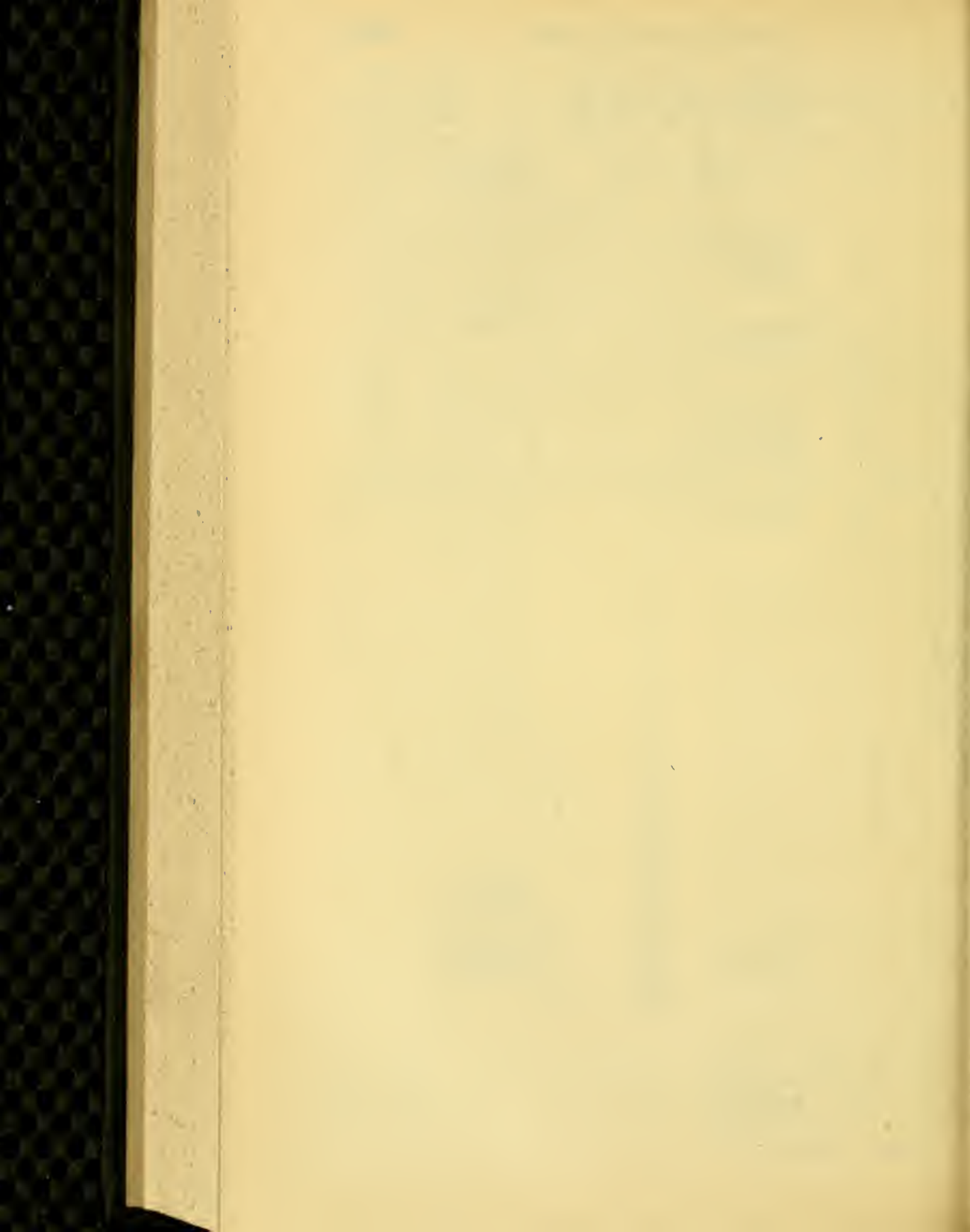
Mr. PECORA. Between now and tomorrow morning?

Mr. DAY. Yes, sir. If I cannot do it tomorrow morning, why, I will probably be able to hand it to you by tomorrow afternoon, because I think the market letter writer will have probably gone by the time I will get him on the phone. Some people are fortunate. They have short hours.

The CHAIRMAN. The committee will take a recess until 10:30 tomorrow morning. All witnesses will report then.

(Accordingly, at 4:23 p.m., the committee adjourned until 10:30 o'clock on the following morning.)

Date	Name of account	Bought		Sold		Balance	
		Shares	Amount	Shares	Amount	Dr.	Cr.
1933							
June to Oct.....	L. O. F. Syndicate.....	81,500	\$2,306,562.50	81,500	\$2,496,465.00		\$189,902.50
Do.....	No. 1.....	26,900	769,272.50	26,900	823,781.50		54,509.00
Do.....	No. 2.....	104,723	3,130,965.95	104,723	3,146,084.50		15,118.55
Do.....	No. 3.....	216,700	6,783,893.48	216,700	6,882,684.00		98,790.52
July to Oct.....	No. 4.....	48,700	1,339,460.00	48,700	1,363,202.00		23,802.00
Aug. to Oct.....	No. 5.....	41,100	1,245,915.00	41,100	1,263,623.50		17,708.50
Sept. to Oct.....	No. 6.....	5,400	164,222.50	5,400	157,929.00	\$6,293.50	
		525,023	15,740,291.93	525,023	16,133,829.50	6,293.50	399,831.07
	Legal services charged to L.O.F. Syn.....						6,293.50
	Telephone charges charged to L.O.F. Syn.....					751.55	393,537.57
	Dividend on 8,900 shares credited to L.O.F. Syn. #5.....					84.40	2,536.50
						835.95	396,074.07
							835.95
							395,238.12
	Check to order:						
	Hyva Corporation.....			65ths			
	Lehman Brothers.....			5		30,402.93	
	Bell and Beckwith.....			6½		39,523.81	
	Walter P. Chrysler.....			10		60,805.87	
	Joseph P. Kennedy.....			5		30,402.93	
	Kuhn, Loeb & Co.....			10		60,805.87	
	Wright and Sexton.....			13½		82,087.91	
	Redmond & Co.....			5		30,402.93	
				10		60,805.87	
							395,238.12





## STOCK-EXCHANGE PRACTICES

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THURSDAY, FEBRUARY 22, 1934

UNITED STATES SENATE,  
COMMITTEE ON BANKING AND CURRENCY,  
*Washington, D.C.*

The committee met at 10:30 a.m., pursuant to adjournment on yesterday, in room 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams, Kean, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The committee will please come to order. I believe Mr. Day was on the stand when the committee adjourned yesterday afternoon.

Mr. PECORA. Mr. Day, will you please resume the stand?

Mr. DAY. Certainly.

**TESTIMONY OF HENRY MASON DAY, SYOSSET, LONG ISLAND,  
MEMBER OF THE FIRM OF REDMOND & CO., NEW YORK—  
Resumed**

Mr. PECORA. Mr. Day, at the end of the session yesterday you were asked concerning market letters issued by your firm, and particularly as to whether or not in those market letters it was recommended to your customers that they trade in the stock of the Libbey-Owens-Ford Glass Co.

Mr. DAY. Yes, sir.

Mr. PECORA. And you said you were going to get in touch with your New York office with a view to ascertaining what the facts were with respect to that matter, and give us the facts this morning.

Mr. DAY. Mr. Pecora, I have done what I could in that particular connection. Of course, when I got to the hotel last night it was rather late, and naturally, this being a holiday in New York, a majority of our force had gone home. However, I have done the best I could in that connection, and have had certain papers sent down to me. I, however, find, in talking directly with that department of the firm, that we discontinued all market letters on April 1, 1933.

Mr. PECORA. Well, in the market letters that had been issued prior to that time, did you find any mention of the Libbey-Owens-Ford Glass Co.?

Mr. DAY. Did you say prior to that time?

Mr. PECORA. Yes.

Mr. DAY. Well, I haven't got those letters. But I do not believe there was such mention.

Mr. PECORA. Now——

Mr. DAY (continuing). I have here what has been gotten up, just in analysis form.

Mr. PECORA. Have you been able to obtain, as you stated yesterday afternoon you would undertake to do, copy of a letter or of letters in connection with the pool in Libbey-Owens-Ford Glass Co. stock that was referred to you in your testimony yesterday afternoon?

Mr. DAY. Yes, sir. I have here what is known to us as an exchange of letters relative to the purchase and distribution of this stock, dated June 1, 1933.

Mr. PECORA. Will you produce that letter, please?

Mr. DAY. Yes, sir.

Senator COUZENS. Was there more than one letter, Mr. Day?

Mr. DAY. No, sir. There are a number of similar letters, however.

Mr. PECORA. That is, the form of letter that passed between your firm and the other participants in the pool?

Mr. DAY. Well, I should like to offer in connection with that letter, Mr. Pecora, a specimen of the letter that went to an individual.

Mr. PECORA. All right. The letter produced by the witness, Mr. Chairman, I now offer in evidence.

The CHAIRMAN. Let it be admitted.

(A letter dated June 1, 1933, addressed to Kuhn, Loeb & Co., was marked "Committee Exhibit No. 69, February 22, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The letter reads as follows:

JUNE 1, 1933.

Messrs. KUHN, LOEB & Co.,

52 William Street, New York, N.Y.

GENTLEMEN: We have purchased for ourselves and associates, including you, 65,000 shares of the common stock without par value, of the Libbey-Owens-Ford Glass Company, an Ohio Corporation, at the price of \$26.50 per share, and in accordance with previous understanding we confirm your interest in the above purchase to the extent of 13,500 shares at such price.

We understand that you will leave this stock with us for sale proportionate with the balance of said 65,000 shares, you to accept the average net avails of such sales as determined by us in our absolute discretion, less brokerages, taxes, and other expenses in connection therewith.

In connection with our purchase of such 65,000 shares of common stock we have obtained for ourselves and associates, options to purchase additional shares of such common stock, as follows:

Up to 20,000 shares on or before July 3, 1933, at \$27.50.

Up to 20,000 shares on or before August 1, 1933, at \$28.50 a share.

Up to 20,000 shares on or before September 1, 1933, at \$29.50 a share.

Up to 20,000 shares on or before October 2, 1933, at \$30.50 per share.

Such options being, respectively, conditional on the full execution by us of the preceding option within the period specified.

We confirm your interest in the above options to the extent of 4,154 shares of such common stock out of each of said application of 20,000 shares.

And it is understood that to the extent to which we, in our absolute discretion, shall exercise such options the said purchases shall be proportionately for your account, and that you will promptly make payment on our call for the shares so purchased for you.

The stock purchased under such options and remaining unsold shall not exceed 20,000 shares at any one time.

It is understood that any such additional stock purchased by you will likewise be left with us for sale proportionately with the other stock purchased by us under such options, on the same terms provided above with respect to the original 65,000 shares.

It is understood that we shall incur no liability for any action taken hereunder in good faith.

If the foregoing is in accordance with your understanding you will please confirm your agreement therewith by signing and returning the enclosed duplicate of this letter.

Yours very truly,

REDMOND & Co.

Now, Mr. Day, did you receive a reply from Kuhn, Loeb & Co. to this communication?

Mr. DAY. Yes, sir; we did.

Mr. PECORA. Have you got the reply letter with you?

Mr. DAY. Yes, sir; I have.

Mr. PECORA. Will you kindly produce it for us?

Mr. DAY. I have here a letter handed to me from our files as being the letter.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(A letter dated June 5, 1913, from Kuhn, Loeb & Co. to Redmond & Co. was marked "Committee Exhibit No. 70, February 22, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The letter just received in evidence and marked committee exhibit no. 70, being on the letterhead of Kuhn, Loeb & Co., reads as follows:

NEW YORK, N.Y., June 5, 1933.

MESSESS. REDMOND & Co.,

48 Wall Street, New York, N.Y.

DEAR SIR: We have your letter of June 1, 1933, regarding Libbey-Owens-Ford Glass Co. common stock, the contents of which letter are in accordance with our understanding.

We are enclosing duplicate copy of your letter, properly signed, and assuring you of our pleasure in being associated with you in this business, believe us.

Yours very truly,

KUHN, LOEB & Co.

Senator COUZENS. Does it show who that letter was signed by?

Mr. PECORA. The initials on the left-hand corner of the letter are: "P.M.S.-B.B." Now, Mr. Day, do you know to whom the initials "P.M.S." refer?

Mr. DAY. I do not. These papers were not gotten up by me.

Mr. PECORA. I know that.

Mr. DAY. I know nothing of the formation of those papers.

Mr. PECORA. Possibly Percy M. Stewart. Now, Mr. Day, I notice that in the letter which you addressed, or that your firm addressed, to Kuhn, Loeb & Co. under date of June 1, 1933, and which has been marked "Committee Exhibit No. 69," there is a reference to what was apparently a firm commitment on behalf of the syndicate for the purchase of 65,000 shares of the stock of the Libbey-Owens-Ford Glass Co. at \$26.50 per share. It was understood by the parties to this syndicate that that was a firm commitment, wasn't it?

Mr. DAY. Yes, sir.



Mr. PECORA. And the commitment was fulfilled by the purchase of 65,000 shares in behalf of this pool from the Libbey-Owens Securities Corporation?

Mr. DAY. Yes, sir.

Mr. PECORA. Now, do you know who negotiated that transaction with the Libbey-Owens Securities Corporation?

Mr. DAY. Well, my recollection of it is that there were a number of gentlemen in it.

Mr. PECORA. Well, who were they?

Mr. DAY. Well, there were representatives of this Securities Co., which is not, as I understand the situation, the Libbey-Owens-Ford Glass Co.; and there was Mr. Walker, my partner—

Mr. PECORA (interposing). By Mr. Walker do you mean Mr. Elisha Walker, one of the partners of Kuhn, Loeb & Co.?

Mr. DAY. Yes, sir.

Mr. PECORA. All right. Go ahead.

Mr. DAY. Mr. Perry Osborn, my partner. I personally for a long time had been trying to buy a block of this stock myself. And the gentlemen representing the Securities Co., which desired to sell this block of stock, as I understood it, to pay off this big loan which they had—there was a gentleman by the name of Mr. Duncan, and Mr. Auchincloss; and one of the Lehmans I know was in it, but which one it was I don't remember exactly, or it was some one of their partners. And I have a recollection, Mr. Pecora, of the name Solvay, but just what the connection was is very hazy in my mind.

Mr. PECORA. Now, were all of the 80,000 shares which were optioned to the pool by the agreement or pool that was put in evidence yesterday afternoon, drawn down?

Mr. DAY. Excuse me while my assistant looks that information up.

Mr. PECORA. All right.

Mr. DAY. Mr. Pecora, while my assistant is looking it up may I save your time by mentioning the testimony on yesterday in this respect: That when the chairman asked me on yesterday a question I made a mistake in my answer. He asked me what the dividend of Libbey-Owens-Ford Glass Co. was, and I stated: Mr. Chairman, it is \$1. As a matter of fact it is \$1.20. You also asked me what the market price was at the time the option was taken, and according to the record which was given to me, and which had been gotten up very hastily, the opening was \$29.

Mr. PECORA. That was on June 1, 1933?

Mr. DAY. That is correct. Then you asked me the question: What was the price of the stock when I would consider that the distribution was over. You asked me that from the record. According to records that are handed to me, Mr. Chairman, it shows that the market closed at  $32\frac{1}{8}$ .

Mr. PECORA. What is the date of that?

Mr. DAY. The date of that, according to this statement now before me, was September 18.

The CHAIRMAN. Then you were asked what was the low and what was the high of the stock.

Mr. DAY. Yes, sir.

The CHAIRMAN. I mean, during the time of the existence of the pool.

Mr. DAY. Yes, sir. Mr. Chairman, I do not think that this statement represents it, because I think the testimony that was given on yesterday, or at least the suggestion was made on papers which I think Mr. Pecora had, but which I did not have, showed the high at one time was 37 and the low was 21. I think we said that we haven't got that figure here.

The CHAIRMAN. You said a low of 21. When it got to 21 I believe you said you bought 1,000 shares for your syndicate.

Mr. DAY. No, sir. I started buying, I think my record will show, at around 28, and bought all the way down to 21, and bought some 20,000-odd shares.

Mr. PECORA. Were those purchases for the account of the pool?

Mr. DAY. Yes, sir.

Mr. PECORA. Or were they for your individual account?

Mr. DAY. As you asked me on yesterday, they were for the account of the syndicate. Then you asked me whether they were distributed at a higher price, or at a profit, as I understood, and I said I didn't know but I hoped so. I think that was what I testified.

Mr. PECORA. Well, have you since been able to learn whether the distribution of the stock that you bought during the market movement for the pool, from 28 down to 21, was distributed at higher prices?

Mr. DAY. I have not attempted to, and it would take a great deal of time to do it.

Mr. PECORA. You have referred to four or five gentlemen as having conducted the negotiations with the officers of the Libbey-Owens Securities Corporation, as a result of which the pool obtained this option on June 1, last.

Mr. DAY. Yes, sir; that is correct.

Mr. PECORA. Now, I presume there was a meeting of those various gentlemen who became eventually pool participants, and an agreement was reached at that meeting with respect to the formation of this pool or syndicate.

Mr. DAY. I do not think in this particular instance that that is so.

Mr. PECORA. Well, how did those three or four or five gentlemen come together and go to the offices of the Libbey-Owens Securities Corporation with a view to negotiating for the obtaining of this option? They did not go as independent agents, did they?

Mr. DAY. No. I think my mind is clouded or confused on your question. What I wanted to convey was—and the question that you asked me before was—"Who took up these negotiations?" and I gave you what my recollection of it was. I understand now you are asking, although I am probably wrong: "Did the syndicate members as a group go into these negotiations?"

Mr. PECORA. Yes.

Mr. DAY. No, sir; I don't think they did.

Mr. PECORA. Well, you stated that the negotiations which led to the obtaining of this option were conducted in behalf of the group by three or four persons, whose names you gave.

Mr. DAY. Yes, sir.

Mr. PECORA. For instance, you mentioned Mr. Elisha Walker, of Kuhn, Loeb & Co.

Mr. DAY. Yes, sir.

Mr. PECORA. And you mentioned one of the partners of Lehman Bros.

Mr. DAY. Yes, sir.

Mr. PECORA. And yourself.

Mr. DAY. Yes, sir.

Mr. PECORA. And I think one other gentleman. Now, there must have been conferences prior to the time when you gentlemen went to the Libbey-Owens Securities Corporation and negotiated for this option, at which you met, discussed the matter, and agreed to form the pool, and tried to obtain the options. Isn't that so?

Mr. DAY. I think that is so, as far as it goes, and naturally, anything you say is so, but what I was trying to make clear was that I did not think, as an illustration, that all the pool members, or syndicate members rather, did go. I mean that I have no recollection of ever seeing Mr. Chrysler there, for instance, and I have no recollection of seeing Mr. Kennedy there.

Mr. PECORA. You have mentioned the names of three or four individuals who did that.

Mr. DAY. Yes, sir.

Mr. PECORA. Those three or four individuals, before they presented themselves to the officers of the Libbey-Owens Securities Corporation, must have met and had conferences among themselves, I take it.

Mr. DAY. They did.

Mr. PECORA. In which they finally determined to organize this pool and to try to obtain this option from the Libbey-Owens Securities Corporation.

Mr. DAY. There is no question about that. I recollect endless meetings.

Mr. PECORA. Who took the initiative in calling together those conferences?

Mr. DAY. (The witness pauses as if trying to recall the matter.)

Mr. PECORA. You see what I am trying to get at, Mr. Day, is—

Mr. DAY (interposing). I appreciate it, and I am trying to give the information, and was just trying to recall it.

Mr. PECORA (continuing). What I am trying to do is to get the genesis of this pool.

Mr. DAY. Yes; and I appreciate exactly what you want, and in my limited vocabulary am trying to get together language to convey to you exactly what I believe you want.

Mr. PECORA. All right. Please do so.

Mr. DAY. I think I was the originator of the idea that this stock was ridiculously undervalued. And I think I conveyed that idea, as I remember it, to Mr. Elisha Walker, of Kuhn, Loeb & Co.; and I think through Mr. Elisha Walker, as my recollection of it now is, through his former association and connection and his knowledge of the ramifications of this investment trust, and his close acquaintanceship with the gentlemen who were in that trust, may be said to have been the one who was the father of the origination of the syndicate to liquidate this loan for those gentlemen.



Mr. PECORA. To liquidate a loan for the investment trust called Libbey-Owens Securities Corporation?

Mr. DAY. Yes, sir.

Mr. PECORA. That is, somebody had knowledge of the fact that the Libbey-Owens Securities Corporation had a loan which was maturing, and conceived the idea of approaching them with a view to taking off their hands this large block of Libbey-Owens-Ford Glass Co. stock. Is that right?

Mr. DAY. That is correct.

Mr. PECORA. And Mr. Walker engineered the details of the transactions or negotiations with the Libbey-Owens Securities Corporation?

Mr. DAY. I think so.

Senator COUZENS. I suppose the idea was conceived in altruism.

Mr. DAY. Well, Senator Couzens, very few of these things are, but this one happened to be that, to have an altruistic note in the results.

Mr. PECORA. Mr. Day, you very frankly said on yesterday before this committee that the pool was organized avowedly for the purpose of redistributing the stock that you hoped to get under option at higher prices and hence at a profit.

Mr. DAY. That is correct, sir.

Mr. PECORA. And that is what most pools are organized for.

Mr. DAY. I believe so. I have always heard that they were. I do not know what a pool means, and I do not think anybody else does; nevertheless, that is certainly the conception of anything of the kind.

Mr. PECORA. Well, it is quite singular that no one knows what the meaning of a "pool" is, and yet lots of persons are willing to discuss pools very freely in a manner that indicates some understanding of the term.

Mr. DAY. Well, I have been there a very short time, but have heard men who have been there for as long as 25 years attempt to tell what a pool is, and yet when they got all through with their statement I did not know what it was.

The CHAIRMAN. This was not a new issue of stock, was it? This was old stock held by this investment trust.

Mr. DAY. No, sir; it was not new stock.

Mr. PECORA. Someone has suggested that a pool is something in which the public gets drowned. [Laughter.]

Mr. DAY. Well, I have heard that the word "gigilo" has been applied to jiggling, and that people get drowned in it, perhaps both.

Mr. PECORA. You mean jiggling in the market?

Mr. DAY. Yes.

Mr. PECORA. Now, as a matter of fact, did this pool—and I will continue to call it a "pool" because it is the popular term.

Mr. DAY. All right.

The CHAIRMAN. Let me ask you first right there: Do you know the amount of this loan that was to be taken up?

Mr. DAY. Mr. Chairman, I don't know. It was purely hearsay, and I have never seen the figures. I have heard it discussed a great many times.

Mr. PECORA. I notice, Mr. Day, that in the correspondence which passed between your firm and Kuhn, Loeb & Co., and which has been offered in evidence here this morning, there is no mention made

of any margin which Kuhn, Loeb & Co. as a participant in the pool, or syndicate, was required to put up. Is that true also of the other participants?

Mr. DAY (after getting a paper from Mr. Gibson). I think, Mr. Pecora, on the second page, breaking in there, you will find:

And it is understood that to the extent to which we in our absolute discretion shall exercise such options, such purchases shall be proportionately for your account, and that you will promptly make payment on our call for the shares so purchased for you.

Mr. PECORA. Now, Mr. Day, were the letters that were sent to the other pool participants by your firm similar in form to this one marked "Committee Exhibit No. 68", and which was sent to Kuhn, Loeb & Co., except for such details as would indicate the extent of the particular participation?

Mr. DAY. Yes, sir; that is as I stated it to you.

Mr. PECORA. That was the form of the letter that was used?

Mr. DAY. Yes, sir.

Mr. PECORA. Now, were any members of the pool actually called upon during the life of the operations and trading by the pool under this option, required to put up any cash as a matter of fact?

Mr. DAY. No, sir.

Mr. PECORA. And what was that due to, and what circumstances or facts were present during the life of the pool which rendered it unnecessary for any pool participant to actually put up any cash during the pool operations, although the pool closed with a profit of close to \$400,000, and traded in over 1,000,000 shares of the stock?

Mr. DAY. Will you let me get that record?

Mr. PECORA. All right.

Mr. DAY. Rather than have a repetition of the statement here, may I have Mr. Gibson give this information to you, as he holds all the papers on the matter?

Mr. PECORA. Yes. And suppose we now have Mr. Gibson sworn.

The CHAIRMAN. Mr. Gibson, please stand, hold up your right hand, and be sworn:

You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. GIBSON. I do.

#### TESTIMONY OF FRANK J. GIBSON, AUDITOR OF REDMOND & CO., NEW YORK CITY

Mr. PECORA. Mr. Gibson, please give your full name for the record.

Mr. GIBSON. Frank J. Gibson.

Mr. PECORA. Where do you live?

Mr. GIBSON. New York City.

Mr. PECORA. Well, New York City is not a small place, and that address would be rather indefinite.

Mr. GIBSON. 1501 Undercliff Avenue.

Senator COUZENS. What is your occupation?

Mr. GIBSON. Auditor with Redmond & Co.

Mr. PECORA. How long have you been connected with the brokerage firm of Redmond & Co.?

Mr. GIBSON. Seven years.

Mr. PECORA. Now, can you answer the question which I last addressed to Mr. Day and which in the interest of conserving time he has referred to you to answer?

Mr. GIBSON. I can.

Mr. PECORA. Will you please proceed to do so?

Mr. GIBSON. At the end of the first day—

Mr. PECORA (interposing). Do you mean the first day of the life of this option?

Mr. GIBSON. Yes, sir.

Mr. PECORA. And that was when, June 1, 1933?

Mr. GIBSON. June 2, according to our books, and we are always one day late in posting.

Mr. PECORA. All right. Go ahead.

Mr. GIBSON. The account had a net short position in it of approximately 40,000 shares.

Mr. PECORA. Now, do you mean by that that on June 2, the day after this option was given to the pool by the Libbey-Owens Securities Corporation, the account had sold against that option to the extent of 40,000 shares?

Mr. GIBSON. Net.

Mr. PECORA. That is, it had both bought and sold, but it had a short position of 40,000 shares on June 2.

Mr. GIBSON. It had sold 40,000 shares in excess of its purchases.

Mr. PECORA. Which was a short position against the option?

Mr. GIBSON. Yes, sir.

Mr. PECORA. Did that short position give a profit to the pool under the option?

Mr. GIBSON. Yes, sir.

Mr. PECORA. Of how much? You can give us the approximate figure if you have it.

Mr. GIBSON. I know that the original take-down price is \$26.50, and I can tell approximately by looking at the sales prices.

Mr. PECORA. Yes.

Mr. GIBSON. That will be close enough for your purposes.

Mr. PECORA. Surely. That is why I asked for the approximate amount.

Mr. GIBSON. I will say roughly \$100,000.

Mr. PECORA. From that time on was the trading conducted on behalf of this pool under this option of a character that enabled the pool to make such profits as to cause it to take down the stock under this option and pay for it out of the proceeds of the sales it had already made against the option?

Mr. GIBSON. That is right.

Mr. PECORA. And that is the way it operated throughout?

Mr. GIBSON. Yes, sir.

Mr. PECORA. Hence it was never necessary at any time for the pool, or any of its participants, to put up a single penny, is that right?

Mr. GIBSON. That is right.

Mr. PECORA. The moneys that they used to draw down stock under the option were moneys that they had made currently in the market through their trading in the stock against the option.



Mr. GIBSON. Not moneys that they had made; moneys that they received as the proceeds of sales.

Mr. PECORA. Yes.

Mr. GIBSON. A portion of that was money made.

Mr. PECORA. That is the way this pool operated throughout its entire life.

Mr. GIBSON. That is right.

The CHAIRMAN. Who was the manager?

Mr. PECORA. I think Mr. Day testified that Redmond & Co. were the managers of the pool. Is that so?

Mr. DAY. That is correct.

Senator KEAN. I would like to ask some questions. The market is not such, in the ordinary case, that a pool can operate without spending a lot of its own money before it takes down the option. That is true, is it not?

The CHAIRMAN. They did not have to do it in this case.

Senator KEAN. No; but there was a great market because they believed that the eighteenth amendment was going to be repealed.

Mr. PECORA. Senator, the evidence yesterday was that the market prior to the formation of this pool account was very inactive, and on the first day after they obtained the option the pool bought and sold to an extent that left them 40,000 shares short against the option.

Senator KEAN. The other side of the thing, as I know the market, is this. The market for all alcohol stocks or whisky stocks, or stocks involving in any way drinks, was a very broad market, and a market in which people were speculating in that kind of stocks.

Mr. PECORA. That is not the evidence with regard to this particular security, the Libbey-Owens-Ford Glass Co.

Senator KEAN. I am trying to get into the record what I happen to know, and that was the reason for the question.

Mr. PECORA. The evidence here yesterday was to the effect that this particular stock, namely, the common stock of the Libbey-Owens-Ford Glass Co., was very inactive up to the time of the formation of this pool and the operation of the trading under this option.

#### TESTIMONY OF HENRY MASON DAY—Resumed

Mr. PECORA. Now, Mr. Day, let me ask you this. This stock, the Libbey-Owens-Ford Glass Co. stock, was commonly known as one of the "repeal stocks", was it not?

Mr. DAY. By the average person who never took the trouble to look up what its business was.

Mr. PECORA. That is just what I am coming to. It was commonly known as a "repeal stock", in the belief by those who regarded it as a repeal stock, that the company did a kind of business that it was assumed would be made considerably more profitable through the repeal of the eighteenth amendment. Is not that so?

Mr. DAY. It is a rather hard question to answer the layman's mind. Of course, the Libbey-Owens-Ford Glass Co., as I understand it—I have tried to study it—does not make a bottle of any kind.

Mr. PECORA. And to that extent the public had a wrong impression concerning this stock being properly a repeal stock, in the sense in which that term was used. Don't you know that to be a fact?

Mr. DAY. I have heard it said a number of times that that was the fact.

Mr. PECORA. The public apparently got the notion, from the title of the company, namely, Libbey-Owens-Ford Glass Co., that it manufactured, among other things, glass bottles, and proceeded on the assumption that the business of the company would be considerably enhanced and made more profitable through the repeal of the eighteenth amendment. Was not that the common notion entertained by the lay public?

Mr. DAY. I thought, from the number of people that have spoken about it, that it, having the name "Owens" in it, the average person on the street, knowing that the Owens-Illinois——

Mr. PECORA. The Owens-Illinois Glass Co.?

Mr. DAY. The Owens-Illinois Glass Co. being a big manufacturer——

Mr. PECORA. It is a big manufacturer of bottles.

Mr. DAY. And wonderfully administered, with profits rising all the time—that it was fair to assume that the layman in the street confused the two.

Mr. PECORA. And got the impression that the Libbey-Owens-Ford Glass Co. was also engaged in the business of manufacturing bottles, which business would be considerably enhanced and improved through the repeal of the eighteenth amendment?

Mr. DAY. I think that is true.

Mr. PECORA. Whereas the fact of the matter is that it was not that kind of a company. That is, it was not engaged in the kind of a business that would necessarily be enhanced or improved through the repeal of the eighteenth amendment.

Mr. DAY. That is absolutely true. The intelligentsia of the country knew that they were making an unbreakable glass, and that throughout the country there were advertisements by General Motors and all other outstanding motor companies that they, in their new models, or old models, had Libbey-Owens unbreakable glass. Furthermore, the backbone or the brains of our country was originating laws which made it absolutely necessary, when human life could be spared through having unbreakable glass, that that particular city, State, or section of the country use nothing but Libbey-Owens glass.

Mr. PECORA. Because it was nonshatterable glass.

Mr. DAY. That is correct.

Mr. PECORA. But that glass was not used in the manufacture of bottles?

Mr. DAY. No, sir; not in any way; according to my understanding.

Mr. PECORA. Did Redmond & Co., for the account of this pool, have or acquire any option on stock of the Libbey-Owens-Ford Glass Co. other than the one that has been put in evidence here?

Mr. DAY. Yes, sir.

Mr. PECORA. How many other such options did it have?

Mr. DAY. Answering your first question, under date of June 16, written, I presume, on the stationery of Kuhn-Loeb, noting in the upper left-hand corner the name Kuhn-Loeb & Co., a letter was addressed to Redmond & Co., 48 Wall Street, signed by Kuhn-Loeb. There was a purchase made from the General Motors Corporation. I produce this letter.

The CHAIRMAN. Purchased by whom and from whom?

Mr. DAY. Purchased, Mr. Chairman, along the same line as the first.

The CHAIRMAN. Was that part of the 80,000 shares?

Mr. DAY. No; I think this was another.

Mr. PECORA. This was an additional option. I show you what purports to be a photostatic reproduction of the copy of the letter you have just handed to me, dated June 16, 1933. Do you recognize it as being a true and correct copy of the letter received by your firm from Kuhn-Loeb & Co., bearing that date?

Mr. DAY. Unquestionably, if you say so.

Mr. PECORA. You might compare it with your copy so that you may properly authenticate it.

Mr. DAY (after examining paper). Yes, sir.

Mr. PECORA. I offer in evidence the photostatic reproduction of it.

The CHAIRMAN. Let it be admitted.

(Copy of letter, Kuhn-Loeb & Co., to Redmond & Co., June 16, 1933, was received in evidence, marked "Committee's Exhibit No. 71", Feb. 22, 1934, and the same was subsequently read into the record by Mr. Pecora.)

Mr. PECORA. The document has been marked in evidence as "Committee's Exhibit No. 71" and reads as follows. It is on the letter-head of Kuhn-Loeb & Co. [reading]:

JUNE 16, 1933.

MESSRS REDMOND & Co.,  
48 Wall Street, New York, N.Y.

DEAR SIRs: In accordance with previous understanding, we confirm that we have purchased for ourselves and associates 25 thousand shares of common stock, without par value, of Libbey-Owens-Ford Glass Co., an Ohio corporation, at the price of \$27.50 per share flat, and that in connection with our purchase of said 25 thousand shares of said common stock we have obtained options to purchase additional shares of such common stock as follows:

Up to 25 thousand shares on or before July 12, 1933, at a price of \$29 per share flat.

Up to 15 thousand shares on or before July 28, 1933, at a price of \$30 per share flat.

All in accordance with letter of agreement dated June 13, 1933, between General Motors Corporation and ourselves, copy of which is enclosed.

As arranged, the Toledo Trust Co. has joined us in this purchase to the extent of 5 thousand shares, but has no interest in the options referred to above.

We confirm that the balance of the above purchase, that is, 20 thousand shares, and the options mentioned above, are for account of the associates, including you and ourselves, referred to in your letter to us of June 1, 1933, in proportion to the percentage of interest which said associates had in the purchase and options referred to in your said letter.

We understand that you will confirm to the associates, including ourselves, their respective interest in the purchase and options above referred to, so that the above mentioned 20 thousand shares and the additional 40 thousand shares covered by the present options will be handled in the same manner as the shares purchased and under option as described in your letter of June 1 to us.

If the foregoing is in accordance with your understanding will you please confirm your agreement by signing the enclosed copy of this letter?

Yours very truly,

(Signed) KUHN-LOEB & Co.

This means that this commitment for the purchase of 25 thousand shares from the General Motors Corporation at \$27.50 per share, plus an option on 40 thousand shares at prices of \$29 and \$30 per share, was put into the original pool agreement.



Mr. DAY. It was put into the original syndicate agreement; yes, sir.

Mr. PECORA. And dealt with in the same manner.

Mr. DAY. Yes, sir.

Mr. PECORA. As the stock that was optioned to the syndicate under date of June 1, 1933, by the Libbey-Owens Securities Corporation.

Mr. DAY. That is correct, sir, absolutely.

Mr. PECORA. Were the trades that the syndicate made in the stock, that have already been testified about by both you and Mr. Gibson, trades which included trades under this option of June 16, 1933?

Mr. DAY. The trades which were testified to yesterday, in the volume of stock which I gave you from the copy of the memorandum which you had, were part and parcel of this, and the same syndicate were part and parcel of this, and had the same participation.

Mr. PECORA. And also operated without putting up any cash from its own resources. That is to say, the syndicate was able to take down the stock under this option out of the proceeds of sales of the stock which it had already made in the open market against this option.

Mr. DAY. They took down this with the differential.

Mr. PECORA. What was the difference?

Mr. DAY. I do not know, but there would be a differential. There was no money put up. There was enough money there to take it in. I do not mean to quibble.

Mr. PECORA. On those options, during the operations of this pool last summer, when stock was purchased on the way down, from about 28 to 21, is it not a fact that those purchases were made to cover a short position which the pool had taken in the stock?

Mr. DAY. I could not answer without, so to speak, matching up trades.

Mr. PECORA. Perhaps Mr. Gibson, the auditor of your firm, could inform you as to that.

Mr. DAY. I think, if given sufficient time, we could answer that question, and would be very glad to.

Mr. PECORA. How much time would you need, Mr. Day?

Mr. DAY. I do not know, sir. Personally, I think the answer is that if that was true, we are perfectly willing to admit that. Probably it was true. But, on the other hand, if we bought 25,000 at \$27.50, and we bought 26,000 at \$26.50, and the market went down to 21 or  $21\frac{1}{8}$ , or  $21\frac{1}{4}$ , whatever happened to be the low, it is fair to suppose that this group would have been only too glad to have bought stock 5 or 6 points lower than the point at which they had taken these on.

Mr. PECORA. The reason I asked you that is because our analysis of the trades would tend to indicate that was what was done, but I wanted to make sure of it so that the record will not in any way do an injustice to the facts.

Mr. DAY. I have gentlemen here who could break it down. Possibly they could go outside and break it down. I have my two best men here, who handled all these details. I, personally, did not. I will be very glad, if it so shows, to testify that at that particular moment there was a buying power in the syndicate.

Mr. PECORA. I will tell you what I suggest might be done. Let your Mr. Gibson make the break-down, and if he reaches a conclusion, from his analysis of the trades made by the syndicate, other than the one that we have reached, let him so state, and we will put it in the record.

Mr. DAY. I want to facilitate it all I can. At any rate, whether he would be able to do it right here, without his tickets and other paraphernalia which they use in a matter of that kind, I do not know. Mr. Gibson would be very glad to return here at any time and give you the facts about it for your record.

Mr. PECORA. If we do not hear to the contrary in the next few days from you or Mr. Gibson, it is safe to assume that these purchases on the way down were made to cover short positions.

Mr. DAY. I think that is quite correct, sir.

Mr. PECORA. Was there any other option that this pool or syndicate acquired during the time that it was trading in this stock last summer?

Mr. DAY. No, sir.

Mr. PECORA. I have no further questions to ask, then, about these pool operations in this particular stock. Is there anything you want to add to the testimony you have already given on this subject, Mr. Day, without the necessity of being asked specific questions about it?

Mr. DAY. I do not think there is very much that I would like to add, and I hesitate to add what I might say, but, in justice to my partners and Redmond & Co., I would like to say that in this particular instance—and we try in every single instance, in any stock we go into—I have heard this question raised here, which brings it to my mind. We have a very large statistical department that makes a very thorough analysis of any stock, and in this particular instance we considered it was undervalued. I had a break-down made, to correct an impression relative to the manner in which I handled this situation. It was closed while I was away, but I had, I suppose, the most to do with it, and, interpreted as it may be interpreted, there was a profit of \$395,000. There was a distribution of 165,000 shares. According to the accounting department, they tell me that there was a profit per share of \$2.40. At a price of \$30, this would represent 8-percent commission paid for distribution.

I have not anything to add further than that. I am giving you the best of my recollection.

The CHAIRMAN. You may be excused.

Mr. PECORA. I want Mr. Day to testify with regard to another inquiry.

Mr. DAY. At this time?

Mr. PECORA. Not at this time, but I want him to remain within call. (Witness temporarily excused.)

Mr. PECORA. I now call Mr. Seton Porter.

#### TESTIMONY OF SETON PORTER, NEW YORK, PRESIDENT NATIONAL DISTILLERS PRODUCTS CORPORATION

The CHAIRMAN. You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. PORTER. I do.

Mr. PECORA. State your full name and address, please, Mr. Porter.

Mr. PORTER. Seton Porter; 52 William Street, New York.

Mr. PECORA. Are you the president of the National Distillers Products Corporation?

Mr. PORTER. Yes, sir.

Mr. PECORA. How long have you been president of that company?

Mr. PORTER. Since its formation.

Mr. PECORA. That was when?

Mr. PORTER. 1924; 10 years.

Mr. PECORA. Since its formation, have you also been a member of the board of directors of the corporation?

Mr. PORTER. Yes; always.

Mr. PECORA. What is the capital structure, briefly, of the National Distillers Products Corporation?

Mr. PORTER. At the present time, sir?

Mr. PECORA. You might give it at its formation in 1924, and then briefly give any changes that have been made in its capital structure since that time.

Mr. PORTER. It is quite a long story, sir, and, if you would permit me to be approximate, I can give you roughly the idea.

Mr. PECORA. All right, sir. Do it that way.

Mr. PORTER. The company was formed in 1924 as the outgrowth of a receivership and a bankruptcy. I came into the matter as an engineer on reorganization, and subsequently was asked to become the president when this company was formed as a reorganization.

It started with approximately three and one half millions of, I think, about 7-percent bonds. Those bonds were sold to the public. The proceeds of those bonds were used to pay——

Mr. PECORA. Were they debenture bonds?

Mr. PORTER. Debentures; 10 years, I think they were, sir. The proceeds of those bonds were used to pay the expenses of reorganization and trade creditors, and that sort of thing, and leave a small amount of cash in the company.

The company had, in addition to those bonds, a little less than \$12,000,000 of 7-percent preferred stock, which was given in exchange or was given for the bank debt and a previous issue of bonds. There were about six millions of bonds outstanding in the hands of several thousand people of the old company and about six millions of bank debt. This preferred stock was, through the reorganization, given in exchange for those bonds and the bank debt, so that this company you are now asking me about, sir, started in 1924 with some three and one half millions of debentures, eleven-million-and-odd of this preferred stock, and 168,000 shares of common stock.

Mr. PECORA. No par value.

Mr. PORTER. No par value. Just to make the picture a little more complete, that preferred stock, because of the difficulties, was not made cumulative for a period of 6 years. At the end of 6 years it was to become cumulative. That is where we started.

As to the first change, roughly speaking, we succeeded in selling a yeast company, known as the "Liberty Yeast Co.", and with the proceeds of that sale at that time I think we succeeded in paying



off our original debenture issue. I do not think that is very important now.

I come down, perhaps, to 1929. This company had originally inherited—perhaps, if it does not take too long I can make it plain to you. There was the old large whisky corporation of preprohibition days, known as the “Distillers Corporation.” They were also engaged in the alcohol business, and they were engaged in the yeast business. At the time of failure they, of course, had tried, due to prohibition, to go into the food businesses. We inherited what was left of that. We had a whisky business which, of course, was limited by prohibition, this yeast business, and the alcohol business.

In 1929 we sold the alcohol company, known as the “Kentucky Alcohol Corporation”, a wholly owned subsidiary, for 16½ million dollars cash. That cash was taken and retired the debentures—we subsequently had to issue a second set of debentures—retired the debentures, and all the preferred stock, which was called at \$110 a share, and the accumulated dividends. It had just then become cumulative. That left us with some surplus cash in our treasury. That was our position in the beginning of 1929, when things were quite booming in the security markets. Our whisky business was very quiescent, simply selling for medicinal trade, and we had the largest medicinal business in the country. That was the picture in the boom times of 1929, sir.

The CHAIRMAN. What was this you sold for 16½ million?

Mr. PORTER. An industrial alcohol business.

Mr. PECORA. What changes thereafter were made in the capital structure of the company?

Mr. PORTER. We issued 107 thousand shares in exchange for common stock of the American Medicinal Spirits Co., which was a partially owned subsidiary company. That was done on December 31, 1929. That additional issue of common stock gave us 100 percent ownership of that subsidiary, the whisky company, and the next change—I have not dealt at all with the preferred stock, but perhaps you are not interested in that. The next change in the common stock structure, was in the spring of 1933, of 40 thousand shares sold for cash; 12 thousand shares sold for cash; and 27 thousand shares which were sold through stock brokers.

Mr. PECORA. To whom were those blocks of stock sold for cash in 1933?

Mr. PORTER. The 40 thousand shares and the 12 thousand shares were sold to a group represented by William E. Levis.

Mr. PECORA. William E. Levis at the time was president of the Owens-Illinois Glass Co., was he not?

Mr. PORTER. Yes, sir.

Mr. PECORA. And the 40 thousand share block sold at \$25 a share to that group headed by Mr. Levis, or which included Mr. Levis?

Mr. PORTER. Yes, sir.

Mr. PECORA. With the sale of those 40 thousand shares was not an option given to the same group covering 12 thousand shares at \$25 a share?

Mr. PORTER. Twelve thousand shares at \$27.50.

Mr. PECORA. Those 12 thousand shares were drawn down by that group under that option?

Mr. PORTER. Yes, sir.

Mr. PECORA. What other sales were made in 1933, of which you have not given us the price?

Mr. PORTER. There were 27 thousand shares offered to the stockholders coincidentally with that sale to Mr. Levis, at the same price, \$25 per share. Then later there was some other. Following that, in June, there were 106 thousand shares of common stock issued in the purchase of the Overholt & Large Distilleries; 102 thousand of it was for that purchase and 4 thousand shares for the purchase of the Sunnybrook Distillery shares.

Mr. PECORA. The block of 102 thousand shares issued in June 1933 was issued to D. A. Schulte & Co., or his interests, were they not?

Mr. PORTER. Yes, sir.

Mr. PECORA. They acquired control of certain distillery properties which the National Distillers Products Co. purchased through this issue of 102 thousand shares; is that right?

Mr. PORTER. That is right.

Mr. PECORA. At what price were those 102 thousand shares issued to Schulte & Co., or rather, what value was given to them?

Mr. PORTER. \$60, I believe.

Mr. PECORA. \$60 a share?

Mr. PORTER. We have to state that, I believe. We have to place a value on them. I think it was \$60. It was an exchange of properties.

Mr. PECORA. Were any other sales of capital common stock of the company made in 1933 by the company?

Mr. PORTER. That concludes all the shares from the formation of the company to the present date.

Mr. PECORA. In 1932 did your company sell en bloc to anybody any of its common stock?

Mr. PORTER. Yes, sir.

Mr. PECORA. Will you give us the details of any such transaction in 1932?

Mr. PORTER. As I have just stated, in 1929, as a result of the sale of the Kentucky Alcohol Corporation for 16½ million dollars in cash—that was the most active subsidiary that we had—the company was left with considerable cash, and interest rates were very high. At first we loaned the bulk of that on call, on the street. My recollection is that we never got less than 6 percent. Interest rates ran very high at that time—perhaps 7 or 8.

Mr. PECORA. Do you recall about the aggregate amount that the company loaned on call in 1929?

Mr. PORTER. I think from a million and a half to two million, roughly.

Mr. PECORA. Did it make those call loans directly, or did it make them through any bank or other agent?

Mr. PORTER. We made them directly through banks.

Mr. PECORA. That is, you turned over the money to banks to be loaned on call?

Mr. PORTER. To loan it to stock-exchange houses.

Mr. PECORA. On call?

Mr. PORTER. On call.

Mr. PECORA. And the bank charged its usual commission for handling the loan?

Mr. PORTER. Yes; very small.

Mr. PECORA. About a quarter of 1 percent?

Mr. PORTER. Something of that kind; yes, sir. Following that, interest rates fell, and we felt that some of this cash should be invested. We made two types of investment. We invested a considerable portion of it in our own common shares, which we bought on the open market, and another portion of it in the common shares of three other industrial corporations which we thought at that time we were picking with great care, acumen, and skill. We had a lot of bankers on our board, and I had their careful advice as to what we should buy, and we put about \$440,000 in cash in the common shares of three companies that we had no interest in, that were very active and large corporations.

Mr. PECORA. What were those companies?

Mr. PORTER. They were the Anaconda Copper Co., the Kennicott Copper Co., and the American Car & Foundry Co.

Mr. PECORA. How many shares of its own stock did your company buy subsequent to 1929 with this cash surplus?

Mr. PORTER. This was in 1929, sir.

Mr. PECORA. In 1929.

Mr. PORTER. In 1929 and 1930.

Mr. PECORA. Were those purchases of its own stock, which you say it made in the market, made after the big break came in October 1929?

Mr. PORTER. No, sir. Unfortunately all these investments were made before the big break. We were like most people.

Mr. PECORA. Let me ask—

Mr. PORTER (after conferring with an associate). I may not be quite correct in that. I can give you the prices, though, sir. After the break perhaps started, and a long time before the debacle took place, we bought a total of 26,393 $\frac{3}{4}$  shares of our stock which had an aggregate cost of 31 $\frac{3}{4}$ . That was \$836,000, roughly. We put \$450,000 into the five thousand of the stock of these other corporations.

Mr. PECORA. From the stocks that you bought, like Anaconda Copper, and Kennicott Copper, I am led to infer that among the bankers you had on your board there might have been directors of the National City Bank.

Mr. PORTER. No, sir.

Mr. PECORA. That is not so?

Mr. PORTER. No, sir. We had at that time the vice chairman of the Irving Trust Co., who has since died; Mr. Jones, of the Bankers Trust Co.; and Mr. Loosby, the president of the Equitable Trust Co.

Mr. PECORA. During the year 1932, did your company deal in any puts and calls in its own stock?

Mr. PORTER. Yes, sir. May I carry this just a little further?

Mr. PECORA. Go ahead.

Mr. PORTER. We began in 1931, as I have just stated, with twenty-six thousand-odd shares of National Distillers' stock, at an average cost of 31 $\frac{3}{4}$ , and this other investment. In 1932 the whole situation changed. We then needed money, and we determined to try to sell



both these investments ultimately, and particularly our own stock. That started in 1932. I will give you the over-all picture. In that year we sold those entire holdings, and in the process of selling them we bought additional shares, so that during the year 1932 the total over-all figures would show purchases of 15,000 shares at an average cost of  $17\frac{3}{8}$ th, and sales of 40,000 shares, which included the 15,000 and the 26,000 we already owned, at  $19\frac{3}{8}$ ths. In other words, if you might think we were buying and selling, we were fortunate in having bought a little lower than we sold. The loss on that National Distillers transaction from the beginning—in other words, the 26,000 shares at \$800,000—was \$200,000, from our capital investment, you might say. Disregarding the fact that that stock paid dividends during that period, and therefore the company did not have to disburse dividends on shares it held, we lost something like 25 percent of the capital investment. On these other shares we invested in, with really the greatest care, we lost over 90 percent of the money invested. We got a recovery of less than 10 percent. I cite that, not in defense of our judgment, or anything else, but merely to tell you what the result was. In selling that stock in that year we gave options, and one or two puts, and so forth.

Mr. PECORA. During 1932 did you give puts and calls on your capital common stock?

Mr. PORTER. Yes, sir.

Mr. PECORA. To whom?

Mr. PORTER. They were all given to Redmond & Co. in 1932.

Mr. PECORA. That is, this firm of stock brokers?

Mr. PORTER. Yes, sir.

Mr. PECORA. What was the purpose of giving those puts and calls in 1932, Mr. Porter?

Mr. PORTER. The market in this stock was very inactive. We had started to try to sell this stock in 1931. We had given some options to some other people in that year. We had a rather difficult experience. We were able to sell but very little without seriously breaking the market, and such experience as I have had led me to believe that giving an option for a short period, at or slightly in excess of the current quotations, and stepping up a little bit, was probably the best way we could dispose of this stock, or get the best price for it. We were solely interested, if I may say so, in getting the most we could for the company on the shares that we bought.

Mr. PECORA. These puts and calls were given to a firm of stock brokers with a view of having some activity in the market excited or created?

Mr. PORTER. No; they were given purely with a view of getting the best price we could. In other words, when we did this, as a rule the price was at the market, or a little more, and was stepped up. It was left to them to do as they saw fit with it.

Mr. PECORA. It was expected that as a result of the giving of these puts and calls the market price of the stock would be beneficially affected?

Mr. PORTER. Yes, sir.

Mr. PECORA. And it would be beneficially affected through the medium, among other things, of creating additional activity in the market, is that right?

Mr. PORTER. I presume so; yes.

Mr. PECORA. Can you tell the committee how many such puts and calls the company gave in 1932?

Mr. PORTER. Probably, roughly, a total of eight, of which not all were exercised, I believe. Only some were exercised.

Mr. PECORA. Was the giving of these puts and calls suggested to you, or the other officers of your company, by anybody?

Mr. PORTER. I can say this, as a frank answer to your question. When a corporation is known to have an ownership of its own shares of stock, Wall Street in general knows about it, and you are subjected to a good deal of solicitation as to whether you would not like to sell it, or what you would like to do with it. A good many people talked with us about it. We talked about it with a great many different people, sir.

Mr. PECORA. Who suggested the giving of the puts and calls for the purposes you have stated?

Mr. PORTER. I do not know that anyone in particular suggested it. It was known that we were going to try to sell these shares. I do not mean to say it was generally known. That would have been a very depressing thing on the market. They knew we were going to try to sell the shares, and I discussed it with Redmond & Co. How the thing came about, I do not remember, whether they came to us or whether we went to them.

Mr. PECORA. When you say you discussed it with Redmond & Co.—

Mr. PORTER (interposing). I think perhaps they came to us.

Mr. PECORA. Do you recall which members of the firm?

Mr. PORTER. Mr. Mason Day primarily.

Mr. PECORA. Was the giving of these puts and calls approved by the board of directors?

Mr. PORTER. Yes, sir.

Mr. PECORA. Were they reported currently to the board of directors?

Mr. PORTER. What was done was this: These securities were bought under a resolution, as I recall it, authorizing the proper officers to spend a million dollars or thereabouts in the purchase; that is the resolution. The actual detailed transactions were reported. When the matter of selling these shares was decided upon a resolution was passed giving the proper officers, myself included, I think very wide latitude to dispose of them to the best advantage, and there were no detailed resolutions for every option.

Mr. PECORA. Were there any resolutions at all adopted by the board of directors authorizing the giving of these puts and calls?

Mr. PORTER. Not specifically; no, sir.

Mr. PECORA. Was any formal report made?

Mr. PORTER. Oh; yes, sir.

Mr. PECORA. To the board of directors with regard to the giving of these puts and calls at the time they were given or shortly thereafter?

Mr. PORTER. Oh, yes, sir; at the regular meetings the status was always plain. It was thoroughly understood; yes, sir.

Mr. PECORA. Does the fact of the making of those reports to the board of directors appear in the minute books of the board of directors?

Mr. PORTER. I do not think so; no, sir. I may say in connection with this matter that the board has an executive committee of which I am not chairman. At that time it consisted of Mr. Loosby, Mr. Jones, and Mr. Banks was a member of it, and Mr. Callahan, who is since dead.

Mr. PECORA. That was the Mr. Callahan connected with the Chase?

Mr. PORTER. Frank Callahan, originally of Rushmore, Bisbee & Stern, first on our board and later with Chase. He was on our board for many years, but he is dead.

And I discussed with the executive committee in great detail just what we were doing from time to time. This was not an arbitrary transaction.

Mr. PECORA. Do the minutes of the executive committee of the board—

Mr. PORTER. No.

Mr. PECORA. Show any such discussions or show any report—

Mr. PORTER. No, sir.

Mr. PECORA. Being made to the executive committee—

Mr. PORTER. No.

Mr. PECORA. Of the giving of these puts and calls?

Mr. PORTER. No, sir.

The CHAIRMAN. Was the corporation paying dividends then?

Mr. PORTER. When we sold this stock, sir?

The CHAIRMAN. Yes.

Mr. PORTER. No, sir. No, sir; we were paying dividends some 2 years, but we had stopped.

The CHAIRMAN. You seemed to have been in very fine condition. You were able to loan a couple of million dollars to brokers, and all that, at a good rate of interest, and now you seemed to need capital. What had happened to the company?

Mr. PORTER. Well, I will try to explain again, Mr. Chairman. You see, we were possessed of a lot of assets that we received in a reorganization, and we had all these debts. It was quite a close thing by the reorganization managers as to whether they would liquidate this company as a result of the receivership or whether they would go forward with it and give this preferred stock on their debts. And it was our first purpose during the early years of managing this company to try to work out those creditors. By the sale of this alcohol company we succeeded in doing so, and that paid all of the original creditors off really with interest.

Now, we were still possessed of this whisky company, which, of course, had great potential value, which we held during all these years, and we had it, Mr. Chairman, when we sold the alcohol company and had what appears like a great deal of cash—it was a great deal of cash, a couple of million dollars—and it was at that time that we made the investment in this stock.

Now, you see, events moved rather rapidly from 1929 and when we got into 1932 we were in this general financial situation the country was in and we were also beginning to come to the point where we saw repeal coming where we needed capital. The thing developed very rapidly. That perhaps answers your inquiry.

Mr. PECORA. In connection with the giving of these puts and calls that you have testified about, do you know whether any of



them were given or assigned to the brokerage firm of Wright & Sexton?

Mr. PORTER. I do now; sir. I don't think I did at the time.

Mr. PECORA. Mr. Porter, the stock of the National Distillers Products Corporation was during all this period of time covered by your testimony listed on the New York Stock Exchange, was it not?

Mr. PORTER. From the beginning; yes, sir.

Mr. PECORA. From the beginning. These puts and calls are in reality forms of options, are they not?

Mr. PORTER. That is what we really call them; sir, yes. They were options.

Mr. PECORA. They are options?

Mr. PORTER. Are options; yes, sir.

Mr. PECORA. Were the giving of these options in the form of these puts and calls reported to the New York Stock Exchange?

Mr. PORTER. No, sir.

Mr. PECORA. At any time?

Mr. PORTER. No, sir.

Mr. PECORA. Isn't it required of corporations whose securities are listed on the board of that exchange that they report to the exchange the giving of such options?

Mr. PORTER. No; it was not at that time, sir. It is now, I believe. It was not at that time.

Mr. PECORA. Have you before you a copy of the application made to the New York Stock Exchange by or on behalf of the National Distillers Products Corporation, dated February 8, 1932, for an initial listing of preferred stock and an additional listing of common stock?

Mr. PORTER. November 8; yes, sir.

Mr. PECORA. No; February 8, 1932. It bears the serial no. A-9880.

Mr. PORTER. Yes, sir.

Mr. PECORA. Do you have it before you?

Mr. PORTER. Yes, sir.

Mr. PECORA. Will you turn to page 7 thereof? The page number is on the top of the page, Mr. Porter.

Mr. PORTER. Oh, yes, sir.

Mr. PECORA. Under the caption of "agreements", isn't it set forth in this application that the National Distillers Products Corporation agrees with the New York Exchange as follows, among other things:

To notify the stock exchange promptly in the event of issuance of options or warrants to purchase stock otherwise than (a) pro rata to stockholders, (b) to officers and employees under general employee stock-purchase plan, (c) firm offers of stock to be taken en bloc within 4 months from date of such offer, of the number of shares covered by such options, of their terms and of the time in which they may be exercised, and of any subsequent changes therein or thereafter, to include this information together with like information, as to any options in existence at the time of approval of this application, so long as said options are outstanding, in all annual financial reports furnished to stockholders and in all formal published reports.

Do you find that provision that I have read from this application?

Mr. PORTER. Yes, sir.

Mr. PECORA. These puts and calls that you have testified to were given subsequent to February 8, 1932, weren't they?

Mr. PORTER. Yes, sir.

Mr. PECORA. They were not reported to the Stock Exchange?

Mr. PORTER. No, sir.

Mr. PECORA. Under this agreement on the part of your company?

Mr. PORTER. Not so required, sir.

Mr. PECORA. What is that?

Mr. PORTER. Not so required, as I understand it, because they are exempted under (c) there, are they not, within 4 months?

Mr. PECORA. Do you consider puts and calls firm offers of stock?

Mr. PORTER. Options. Options is a firm offer, isn't it, sir?

Mr. PECORA. No; a firm offer would not be an option.

Mr. PORTER. Firm offers, I would certainly think, sir—I am not a lawyer, but I would certainly think that an option was a firm offer. It could not be any more firm. We agreed to sell it at a certain price on a certain date, didn't we?

Mr. PECORA. According to that definition of the term "option" there is no difference between an option and a firm offer.

Mr. PORTER. No; I would not think there was.

Mr. PECORA. Don't you consider that under a firm offer there is a definite commitment?

Mr. PORTER. Yes.

Mr. PECORA. In the case of an option there is not?

Mr. PORTER. There certainly is a definite commitment if we agree to deliver certain shares. That is what we do under an option. The other fellow does not obligate himself, but we do.

Mr. PECORA. That is what distinguishes an option from a firm offer, doesn't it, the fact that the other party, the party to whom the option was given, is not obligated, whereas under a firm offer he is obligated to take the stock?

Mr. PORTER. I do not mean to disagree with you, sir, as a lawyer on a legal point, but I would not so understand it.

Mr. PECORA. As a matter of fact, did the optionees, or persons to whom these puts and calls were given, exercise their options under the puts and calls in all instances?

Mr. PORTER. No, sir.

Mr. PECORA. Doesn't that indicate that they were not firm offers?

Mr. PORTER. A firm offer from us, sir, is what I understand. In any event, sir, we did not report them, and we understood that we did not have to. The rule is entirely changed now, sir, and we do have to report any such things.

Mr. PECORA. What is that?

Mr. PORTER. That is a totally different rule now, and I specifically do understand that we would have to report any such transactions now to the stock exchange.

Mr. PECORA. It is a rule and regulation of the stock exchange?

Mr. PORTER. Yes, sir.

Mr. PECORA. But under this application agreement you agreed to do that very thing, didn't you?

Mr. PORTER. No; the rule is now quite different from that, sir. As I understand, what happens in these listing applications, you sign what they put on at that time. You do not come under their new rules necessarily until you sign again, as a matter of fact. We have since signed and since agreed to a different rule from this.

Mr. PECORA. Mr. Porter, isn't it a fact that when your corporation filed this listing application with the New York Stock Exchange——

Mr. PORTER (interposing). We agreed to that——

Mr. PECORA. You entered into the covenants and agreements that are set forth in the listing application itself?

Mr. PORTER. Yes, sir.

Mr. PECORA. And those agreements include that which I read to you from page 7 of the listing application?

Mr. PORTER. Yes, sir.

Mr. PECORA. Now, will you tell the committee at what prices, compared with market prices, these puts and calls were given?

Mr. PORTER. These options, without going into each one, were given at approximately the market or slightly in excess of the market and stepped up, I think, in all the seven instances. I am saying that is approximately.

Mr. PECORA. Now, I show you what purports to be a copy of a letter addressed to your corporation by Redmond & Co. under date of February 15, 1932. Will you look at it and tell me if you recognize it as one of the options that you have testified to was given to Redmond & Co.?

Mr. PORTER (after examining document). Yes, sir.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Feb. 15, 1932, from Redmond & Co. to National Distillers Products Corporation was thereupon designated "Committee Exhibit No. 72, Feb. 22, 1934", and appears in the record in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. The document has been received in evidence as committee exhibit no. 72 and reads as follows; it is on the letterhead of Redmond & Co. [reading]:

FEBRUARY 15, 1932.

NATIONAL DISTILLERS PRODUCTS CORPORATION,

And so forth.

Attention Seton Porter, Esq.

GENTLEMEN: This will confirm that you have this day given to Redmond and Co. a put to you at  $21\frac{1}{2}$  dollars per share good for thirty days from this date on 2,500 shares of the common stock of the National Distillers Products Corporation which may be exercised in part or in whole by notifying the office of the National Distillers Products Corporation, 52 William Street, 24 hours in advance, with the exception that upon the last day the put may be exercised without notice.

We also confirm that you have today given us a call good for 30 days from this date on 4,000 shares of the common stock of the National Distillers Products Corporation in the following amounts at the following prices:

- 500 shares at \$22 per share.
- 500 shares at \$22.50 per share.
- 500 shares at \$23 per share.
- 500 shares at \$23.50 a share.
- 500 shares at \$24 a share.
- 500 shares at \$24.50 a share.
- 500 shares at \$25 a share.
- 500 shares at \$25.50 per share.

It is understood that this call may be exercised in part or in whole upon 24 hours' notice at the office of the National Distillers Products Corporation, 52 William Street, with the exception that upon the last day a call may be exercised without notice.



We are sending you this letter in original and duplicate original, and for the completion of our records request that you sign the original duplicate and return it to us at your convenience.

Very truly yours,

(Signed) REDMOND & Co.

Accepted:

NATIONAL DISTILLERS PRODUCTS CORPORATION.

Now, I show you another letter or copy of a letter addressed to Redmond & Co. by yourself, as president of the National Distillers Products Corporation, dated May 3, 1932. Will you look at it and tell me if you recognize it to be a true and correct copy of a letter sent by you in behalf of your corporation to Redmond & Co. on or about the date which it bears?

Mr. PORTER (after examining document). Yes, sir.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated May 3, 1932, from Seton Porter, president National Distillers Products Corporation, to Redmond & Co., was thereupon designated "Committee Exhibit No. 73, Feb. 22, 1934", and the same appears in the record in full immediately following where read by Mr. Pecora.)

Mr. PECORA. The document has been received in evidence as committee exhibit no. 73 and reads as follows, on the letterhead of National Distillers Products Corporation [reading:]

MAY 3, 1932.

Redmond & Co.

And so forth.

Attention Mr. Mason Day.

Gentlemen: We confirm that we have today given you put to us for 1,500 shares of National Distillers Products Corporation common stock at \$18 per share and a call on 2500 shares as follows:

500 shares at 19

500 shares at 19½

500 shares at 20

500 shares at 21

500 shares at 22

all good for sixty days from this date.

It is understood that the above put or call may be exercised in part or in whole upon 24 hours' notice to us at our office, with the exception that upon the last day a put or call may be exercised without notice.

If the foregoing properly confirms our understanding, please write us to such effect.

Very truly yours,

(Signed) SETON PORTER, *President*.

Now, Mr. Porter, I assumed that you understand how persons operating under the form of options known as "puts and calls" operate under them?

Mr. PORTER. How they do?

Mr. PECORA. Yes.

Mr. PORTER. Well. I think so. I don't know that I am clear about it.

The CHAIRMAN. We cannot hear you, Mr. Porter.

Mr. PORTER. Yes, sir.

Mr. PECORA. In effect, the holder of the option, namely, Redmond & Co., under this last option, marked "Exhibit No. 73", was given the right to put or sell to your corporation 1,500 shares

of your corporation's common stock at \$18 a share and was given the right to call upon your corporation to sell to it, Redmond & Co., 2,500 shares at the prices fixed in this letter, all at the option of Redmond & Co.?

Mr. PORTER. Yes.

Mr. PECORA. Under this option Redmond & Co. were given the right to put to your company or to sell to your company 1,500 shares of its own common stock at \$18 a share if they wanted to, and to buy from your company 2,500 shares at prices ranging from \$19 to \$22 a share if they wanted to?

Mr. PORTER. Yes.

Mr. PECORA. So that if the price of the stock in the market fell below \$18 a share Redmond & Co. were put in a position of obligating your company to take from them 1,500 shares at \$18 a share?

Mr. PORTER. That is right.

Mr. PECORA. And under this option also if the market price went up to above \$19 to \$22 Redmond & Co. were given the right to obtain from your company at those prices, 19 and 22, prices under the market, up to 2,500 shares?

Mr. PORTER. That is right.

Mr. PECORA. No margin was put up by Redmond & Co. under this kind of an option?

Mr. PORTER. No.

Mr. PECORA. None is required on puts and calls of this kind?

Mr. PORTER. Well, we only had altogether in this whole transaction two of what you would call puts, just two altogether in the whole year. That was all the transactions ever.

Mr. PECORA. Did Redmond & Co. under those put and call options call upon your company to take from them—

Mr. PORTER. We purchased I believe under this—

Mr. PECORA (continuing). To take from them the shares that they had the right to put to you at prices above the then market?

Mr. PORTER. That particular transaction, I believe, resulted in their putting to us 1,500 shares at 18, which we did take; yes, sir.

Mr. PECORA. And what was the market at that time?

Mr. PORTER. The market was I think right at the moment probably below that.

Mr. PECORA. It was around 14 and a fraction, wasn't it?

Mr. PORTER. Probably. I don't know exactly, but assume that it was.

Mr. PECORA. How would you expect that your company would profit through the giving of such puts and calls?

Mr. PORTER. I cannot answer that question any better than I have said before. We sold in the year 1932, 40,000 shares, which included the 15,000 shares purchased in that year. The 15,000 shares that were purchased were purchased at an average price of 17%, and the 40,000 that were sold were sold at 19%.

Now, while I do not attempt to say that this was very cleverly done, we did our best to obtain the very best price we could in the selling of these shares, and I think that a careful study of the daily quotations, monthly quotations, and the transactions, would indicate that was the case.

Mr. PECORA. But how did your company expect to benefit from the giving of these puts and calls of the kind that have been put in evidence here?

Mr. PORTER. Well, we thought, I presume, rightly or wrongly, that in order to interest someone to try to market these shares for us we would have to give them an opportunity to—something to work with.

Mr. PECORA. That is—

Mr. PORTER. An option or something that would be of some advantage to them, presumably.

Mr. PECORA. That is, these puts and calls were given to these brokers in order to induce the brokers to make a market for the stock so that your company—

Mr. PORTER. Could market it.

Mr. PECORA. Could dispose of the shares which it had and which it had bought in the open market previously, at a profit?

Mr. PORTER. Right.

Mr. PECORA. Or under more advantageous terms than it otherwise could have disposed of those shares if a market had not been made by the brokers?

Mr. PORTER. Right; yes, sir.

Mr. PECORA. That was the motive behind the giving of these puts and calls, wasn't it?

Mr. PORTER. Yes, sir.

Mr. PECORA. To put it in a nutshell?

Mr. PORTER. That is right.

Mr. PECORA. And the inducement to the brokers in accepting these options in the form of these puts and calls was that it enabled them to operate in the market without losing themselves; isn't that so?

Mr. PORTER. I presume so. There were only two puts in the whole transaction. Only one of the puts was ever exercised, sir, in this whole transaction. The one you have just referred to is the only one that was ever exercised.

Mr. PECORA. At any time during the years 1932 and 1933 to your knowledge did any of the officers and directors of the National Distillers Products Corporation become members of or participants in any syndicates that were formed for the purpose of trading in the market in the stock of the company?

Mr. PORTER. Well, I can only speak for myself, sir. I was interested in two small syndicates, information of which I have given you.

Mr. PECORA. Were there any officers or directors of the company other than yourself interested in those two syndicates that you have just referred to?

Mr. PORTER. Yes, sir; I think so.

Mr. PECORA. Who were they?

Mr. PORTER. Mr. Loosby, myself, Mr. R. E. Wathen, Mr. O. H. Wathen, Mr. D. K. Wiesskopf.

Mr. PECORA. How about Mr. Schwartzhaupt?

Mr. PORTER. Yes, sir.

Mr. PECORA. He was also one of the directors?

Mr. PORTER. I did not mention him because I was not sure that he was a director at that time.



Mr. PECORA. What is Mr. Schwartzhaupt's full name?

Mr. PORTER. Emil.

Mr. PECORA. Are there any members of any stock brokerage firms that are also members of either one of those two syndicates?

Mr. PORTER. There was no member in that syndicate that I have just mentioned.

Mr. PECORA. When was that syndicate that you last mentioned formed?

Mr. PORTER. All that I have, sir, is a statement that was handed to me by the man that handled that, which shows the purchases and sales and the distribution, and the first purchase was in July.

Mr. PECORA. Of 1932?

Mr. PORTER. Of 1932; and it was concluded in August of 1932. It only lasted for 2 months.

Mr. PECORA. Wasn't there another syndicate formed also in July 1932 that included yourself, Mr. Loosby?

Mr. PORTER. Yes, sir.

Mr. PECORA. Mr. Elisha Walker?

Mr. PORTER. Yes, sir.

Mr. PECORA. Mr. L. W. James?

Mr. PORTER. Yes, sir.

Mr. PECORA. Mr. James was a special partner of the firm of Redmond & Co., wasn't he, at that time?

Mr. PORTER. I don't really know, sir.

Mr. DAY. There seems to be a difference of opinion. I did not think he was. My brother partners tell me he was not.

Mr. PORTER. I did not really know, sir.

Mr. PECORA. And in that syndicate to which I am now referring was there an attorney named Loucks?

Mr. PORTER. Yes, sir.

Mr. PECORA. W. B. Loucks, also a participant?

Mr. PORTER. Yes, sir.

Mr. PECORA. Mr. Porter, on general principles do you think it is good practice and ethical and sound practice for officers and directors of a corporation to become members of syndicates to trade in the stock of their own company?

Mr. PORTER. Of their own company?

Mr. PECORA. Yes; to their own personal profit?

Mr. PORTER. I don't think it is unethical to——

Mr. PECORA. You don't think it is unethical for officers and directors of a company to do that?

Mr. PORTER. Not necessarily, sir; no. I know very few people that are interested in companies that are stockholders that do not buy and sell shares in their own company.

Mr. PECORA. Buying and selling individually might be one thing——

Mr. PORTER. Yes.

Mr. PECORA. But forming a syndicate to trade in the stock is another thing, isn't it?

Mr. PORTER. These two syndicates were not formed for the purpose of trading in the stock. The first syndicate referred to was formed by a group of individuals who were all stockholders of the company who believed that the price of the stock was very low, and we

thought that an acquisition of some shares would result in a profit and would probably help the market.

Mr. PECORA. In the operations of that syndicate did not the syndicate both buy and sell in order to enable its members to distribute the stock that they wanted to distribute at a profit?

Mr. PORTER. It so happens, sir, that this syndicate purchased 3,900 shares, and it commenced the purchase of those shares on July 26, July 27, and on August 4 it completed them. And it so happens that they had not sold a single share that they bought in the whole 3,900 and that they began after the acquisition—I am not quite correct, almost correct—they made one purchase apparently afterwards. But the bulk, almost the entire purchase in that syndicate, was made before any selling started, and then it was all sold out. In other words, it was bought at 21, 22, and 20, and it was sold at 22, 24, and 25, and it resulted in a profit to me and it was divided equally among the seven people, \$1,400.

Mr. PECORA. How about the other syndicate? What was the extent of the trading done by the other syndicate?

Mr. PORTER. That I was not at all familiar with, but I have been given since a statement of it. I was not apprised what they were doing, and I have heard it began on July 25 and it started by purchasing apparently two or three thousand shares at 18 to 20.

Mr. PECORA. Now, just give us the total amount of trading done by it.

Mr. PORTER. I don't know that I can do that, sir. It resulted in a profit to me of \$2,300.

Mr. PECORA. How many shares did they trade in?

Mr. PORTER. It is not added up here, sir. There were quite a few shares.

Mr. PECORA. Eighteen thousand eight hundred shares, wasn't it?

Mr. PORTER. If that is what that adds up; yes, sir.

Mr. PECORA. Now let us go to the year 1933. Did any of the officers and directors of your corporation in the year 1933 become members of or participants in any syndicates which traded in the stock of the corporation?

Mr. PORTER. No, sir; not as far as I know.

Mr. PECORA. Not so far as you know?

Mr. PORTER. No.

Mr. PECORA. During the year 1933 did your corporation give to anyone options on its common capital stock?

Mr. PORTER. We gave an option to William B. Levis and his associates for 12,000 shares in connection with the purchase of 40,000 shares which he made.

Mr. PECORA. Have you a copy of the option given to Mr. Levis?

Mr. PORTER. Yes, sir.

Mr. PECORA. Will you produce it, please?

(Mr. Porter searched for document.)

Mr. PECORA. While you are looking for it let me ask how many options all told were given by the company on its common stock during the year 1933?

Mr. PORTER. That was the sole one.

Mr. PECORA. Will you produce the copy of it if you can?

Mr. PORTER. We are trying to find it, sir.

Mr. PECORA. Let me show you what purports to be a copy—

Mr. PORTER (interposing). Yes, sir; here it is [handing document to Mr. Pecora].

Mr. PECORA. I offer in evidence the copy of the option produced by the witness.

The CHAIRMAN. Let it be admitted.

(Letter dated Apr. 28, 1933, from National Distillers Products Corporation to William B. Levis was thereupon designated "Committee Exhibit No. 74, Feb. 22, 1934", and the same appears in the record in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. It is received in evidence as committee exhibit no. 74, and reads as follows:

APRIL 28, 1933.

MR. WILLIAM E. LEVIS,  
965 Wall Street, Toledo, Ohio.

DEAR MR. LEVIS: We hereby confirm the sale to you of 20,000 shares of common stock of National Distillers Products Corporation, as and when listed by the New York Stock Exchange, and on forty-eight hours' notice to you at your office, 965 Wall Street, Toledo, Ohio, at \$25 a share, purchase price payable on delivery of stock to you. As these 20,000 shares are part of the new issue of 200,000 shares just authorized at the stockholders' meeting on April 19th, delivery will have to be delayed until we are able to consummate certain details in connection with listing arrangements on the New York Stock Exchange which Counsel advises us cannot be completed until about May 11th. Therefore, we agree to make delivery as soon as possible after these arrangements are completed, and in no event later than 30 days from date.

It is understood in connection with this sale that it is the intent of the Corporation to issue to its present stockholders warrants covering the right to subscribe to additional stock on the basis of one share for each ten shares now held and that these warrants will not apply to the 20,000 shares covered by this agreement.

This sale is made with the understanding that you and one of your associates, to be selected by you with our approval, will be elected Directors of our Company.

In consideration of this purchase, we also grant you an option to purchase additional common stock of our Company to the extent of 12,000 shares good for 90 days from date of delivery of the 20,000 shares above referred to at a price of \$27.50 per share. Upon acceptance of said option by notice to National Distillers Products Corporation at its office, 52 William Street, New York, N.Y., the stock, if not then listed, shall be immediately listed and delivered as soon as possible on forty-eight hours' notice to you at your office, 965 Wall Street, Toledo, Ohio, and payment therefor shall be made against delivery of said stock.

Very truly yours,

NATIONAL DISTILLERS PRODUCTS CORPORATION,  
By SETON PORTER, *President*.

Accepted by:

WM. E. LEVIS.

At about the same time as this option was given to Mr. Levis did your corporation enter into any agreement with the Illinois Glass Consolidated Corporation, of Alton, Ill., to sell to it 10,000 shares of common stock of your corporation at \$25 per share?

Mr. PORTER. The same date?

Mr. PECORA. Yes.

Mr. PORTER. Yes, sir.

Mr. PECORA. I show you what purports to be a photostatic reproduction of a letter addressed by you as president of your company to the Illinois Glass Consolidated Corporation, dated April 28, 1933, and I ask you if that is a true and correct copy of the letter evidencing the fact of the sale you have just testified to?



Mr. PORTER (after examining document). Yes, sir.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated April 28, 1933, from Seton Porter, president National Distillers Products Corporation, to Illinois Glass Consolidated Corporation, was thereupon designated "Committee Exhibit No. 75, February 22, 1934", and the same appears in the record immediately following, where read by Mr. Pecora.)

Mr. PECORA. The document has been received in evidence as committee exhibit no. 75, and reads as follows:

THE ILLINOIS GLASS CONSOLIDATED CORPORATION,

APRIL 28, 1933.

*Alton, Ill.*

GENTLEMEN: We hereby confirm the same to you of 10,000 shares of the common stock of National Distillers Products Corporation, as and when listed by the New York Stock Exchange, on 48 hours' notice to you at the office of your President, Mr. William E. Levis, 965 Wall Street, Toledo, Ohio, at \$25 per share, purchase price payable on delivery of stock to you.

As these 10,000 shares are part of the new issue of 200,000 shares authorized at the stockholders' meeting on April 19th, delivery will have to be delayed until we are able to consummate certain details in connection with listing arrangements on the New York Stock Exchange which counsel advises us can not be completed until about May 11th. Therefore, we agree to make delivery as soon as possible after these arrangements are completed and in no event later than 30 days from date.

It is understood in connection with this sale that it is the intention of the Corporation to issue to its present stockholders warrants covering the right to subscribe to additional stock on the basis of 1 share for each 10 shares now held and these warrants will not apply to the 10,000 shares covered by this agreement.

Very truly yours,

NATIONAL DISTILLERS PRODUCTS CORPORATION,  
By SETON PORTER, *President*.

Accepted by:

ILLINOIS GLASS CONSOLIDATED CORPORATION,  
By WILLIAM E. LEVIS.

Did your corporation on this same date, April 28, 1933, also make a firm sale of 10,000 shares of its common stock to Redmond & Co. at \$25 a share?

Mr. PORTER. Yes, sir.

Mr. PECORA. I show you what purports to be a photostatic reproduction of a letter addressed to Redmond & Co. by you as president of the National Distillers Products Corporation dated April 28, 1933. Will you please look at it and tell me if it is a true and correct copy of the letter evidencing such sale?

Mr. PORTER (after examining document). Yes, sir.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Apr. 28, 1933, from Seaton Porter, President National Distillers Products Corporation, to Redmond & Co., was thereupon designated "Committee Exhibit No. 76, Feb. 22, 1934," and the same appears in the record in full immediately following where read by Mr. Pecora.)

Mr. PECORA. The letter has been received in evidence as committee exhibit no. 76, and reads as follows:

APRIL 28, 1933.

REDMOND & Co.,

*48 Wall Street, New York, N.Y.*

GENTLEMEN: We hereby confirm the sale to you of ten thousand (10,000) shares of common stock of National Distillers Products Corporation, as and

when listed by the New York Stock Exchange and on forty-eight hours' notice to you at your main office, 48 Wall Street, New York, N.Y., at \$25 a share, the purchase price payable on delivery of the stock to you.

As these 10,000 shares are part of the new issue of 200,000 shares just authorized at the stockholders' meeting on April 19th, delivery will have to be delayed until we are able to complete certain details in connection with listing arrangements on the New York Stock Exchange which counsel advises us cannot be completed until about May 11th. Therefore, we agree to make delivery as soon as possible after these arrangements are completed and in any event not later than thirty days from date.

It is understood in connection with this sale that it is the intent of the corporation to issue to its present stockholders warrants covering the right to subscribe to additional stock on the basis of one share for each ten shares now held and that these warrants will not apply to the ten thousand shares covered by this agreement. We understand that you have given an option to purchase these shares to Mr. William E. Levis on behalf of himself and his associates.

Very truly yours,

NATIONAL DISTILLERS PRODUCTS CORPORATION,  
By SETON PORTER, *President*.

Accepted by:

REDMOND & COMPANY,  
By MASON DAY.

Mr. Porter, referring to the option for 12,000 shares mentioned in the letter to Mr. William E. Levis of April 28, 1933, which has been received in evidence as exhibit no. 74, will you tell us whether or not your corporation reported to the New York Stock Exchange the granting of that option?

Mr. PORTER. We reported it on I think May 18. [After conferring with associates.] I think it was May 18.

Mr. PECORA. Did you report it to the stock exchange?

Mr. PORTER. We sent a letter to the stockholders on May 18.

Mr. PECORA. No; to the stock exchange, New York Stock Exchange?

Mr. PORTER. Certainly a letter was sent to all stockholders on May 18.

Mr. PECORA. No; I am asking you if the giving of this option for 12,000 shares referred to in the letter to Mr. Levis of April 28, 1933, which has been marked in evidence as committee exhibit no. 74, was reported to the New York Stock Exchange by or on behalf of your corporation.

Mr. PORTER. It was not reported at that time; no, sir.

Mr. PECORA. When was it reported?

Mr. PORTER. I think officially reported when we applied for the listing on May 25. It was reported—

Mr. PECORA. Oh, aren't you mistaken about that?

Mr. PORTER. I may be, sir.

Mr. PECORA. Well, you better look up your records on that between now and the reconvening of the committee after recess.

Mr. PORTER. Right.

The CHAIRMAN. The committee will take a recess until half past 2. (Accordingly, at 1:06 p.m., a recess was taken until 2:30 p.m. of the same day.)

#### AFTERNOON SESSION

The committee resumed at 2:30 p.m. on the expiration of the recess.

The CHAIRMAN. The committee will resume. I believe Mr. Porter is on the stand.

**TESTIMONY OF SETON PORTER, PRESIDENT NATIONAL DISTILLERS PRODUCTS CORPORATION, NEW YORK CITY—Resumed**

Mr. PECORA. Mr. Porter, wasn't the application for the listing of the additional shares, that included those 12,000 shares covered by that option, made on or about June 12, 1933?

Mr. PORTER. The application was made on that date. That is, the stock exchange was put on notice of this option by a letter which we mailed to our stockholders on May 18, a copy thereof being sent to them. But the application is dated June 12, 1933, I believe, as you have stated.

Mr. PECORA. Now, Mr. Porter, during 1933 rights were given to stockholders of record of your corporation, to subscribe for certain shares of the common stock of the corporation, on the ratio of 1 share for each 10 shares then held, and what was the subscription price at which the offer was made to the stockholders?

Mr. PORTER. At \$25 per share.

Mr. PECORA. When was that done?

Mr. PORTER. They were offered that at the same time that this sale of 40,000 shares was made.

Mr. PECORA. And that was on April 27, 1933, wasn't it?

Mr. PORTER. The board of directors made the authorization on that date. That is, they met on that date and authorized it. And the stockholders were notified shortly thereafter.

Mr. PECORA. How many shares were offered to stockholders on these terms?

Mr. PORTER. The number was 27,591 shares.

Mr. PECORA. What was the market quotation of the stock on that date?

Mr. PORTER. On what date?

Mr. PECORA. On the 27th of April 1933.

Mr. PORTER. I think on that day the low was about 30 and the high was about 32. I mean on that particular day.

Mr. PECORA. The exact figures I think are a low of 30 $\frac{5}{8}$  and a high of 32 $\frac{3}{8}$ .

Mr. PORTER. That is right.

The CHAIRMAN. And how many shares did the stockholders take?

Mr. PORTER. It was 25,000 shares, I believe.

Mr. PECORA. As a matter of fact it was 27,450 shares, wasn't it?

Mr. PORTER. I just gave the amount, 27,591 shares.

Mr. PECORA. No. That was the number of shares offered to stockholders.

Mr. PORTER. Oh. And now you want to know how many shares they took?

Mr. PECORA. Yes. How many shares were subscribed for by them?

Mr. PORTER. Practically all of them.

Mr. PECORA. Practically all of them, did you say?

Mr. PORTER. I find that they subscribed for all but 141 shares offered to them, substantially all.

Mr. PECORA. That offer was made to stockholders at about the same time that the company entered into this agreement with Red-



mond & Co., and with William E. Levis and with the Owens Illinois Glass Co., to purchase larger blocks of that stock in the aggregate than the 27,591 shares offered to stockholders at \$25 a share, wasn't it?

Mr. PORTER. Yes, sir.

Mr. PECORA. Why were not the stockholders offered all of that stock instead of only 27,591 shares?

Mr. PORTER. Well, you see, market conditions had been such, and I believe were such practically on that date, that there would have been no opportunity, or no possibility, I might say, of a large offer to stockholders being taken by them. In other words, in January of that year the stock had a low of 17 and a high of  $18\frac{3}{4}$ ; in February a low of  $16\frac{7}{8}$  and a high of  $22\frac{3}{4}$ ; in March a low of  $19\frac{1}{8}$  and a high of  $27\frac{3}{8}$ , and the over-all record for April was a low of 25 and a high of  $32\frac{1}{2}$ . Now, then, we commenced those negotiations, which were not consummated at the end of April, is that it?

Mr. PECORA. Yes, April 28.

Mr. PORTER. On April 28; yes. Some 3 weeks prior to that time, when the stock was selling around \$25 a share, and when there was no possible opportunity of the stockholders being willing to subscribe to any considerable quantity of shares at any such price.

Mr. PECORA. Well, the fact of the matter is that at the same time your company made these firm contracts with Redmond & Co., William E. Levis, and the Owens Illinois Glass Co., it made this offer to its stockholders to take 27,591 shares at \$25 a share, didn't it?

Mr. PORTER. Well—

Mr. PECORA (continuing). And the fact is that your company made that offer to its stockholders at the same time that it closed deals with Redmond & Co., William E. Levis, and the Owens Illinois Glass Co.

Mr. PORTER. That is right.

Mr. PECORA. Well, then, at that time you must have had a pretty well-defined notion that the stockholders would take the 27,591 share that were offered to them?

Mr. PORTER. That is right.

Mr. PECORA. Well, why didn't you think they would take the balance of that issue at \$25 a share?

Mr. PORTER. Oh. The balance of that issue you are talking about

Mr. PECORA. Yes.

Mr. PORTER. Well, of course, we had already made the commitment.

Mr. PECORA. Well, you did not make it until April 28.

Mr. PORTER. It was not ratified by the board of directors until that date.

Mr. PECORA. But the firm commitment wasn't made until April 28, and it was ratified by the board of directors subsequently.

Mr. PORTER. On April 27; yes, sir.

Mr. PECORA. It was at that same time that the 27,591 shares were offered to your stockholders at \$25 a share, wasn't it?

Mr. PORTER. That is right.

Mr. PECORA. Well, now, at that time you must have had the notion that your stockholders would subscribe for those 27,591 shares at \$25 a share.

Mr. PORTER. That is right.

Mr. PECORA. Why didn't you make the offer to include all the shares that you had agreed to sell on April 28 to Levis, Redmond & Co. and Owens Illinois Glass Co.?

Mr. PORTER. We had already agreed to sell those 40,000 shares to them prior to that time.

Mr. PECORA. Oh, no. The agreement was evidenced on April 27.

Mr. PORTER. Yes; the written agreement.

Mr. PECORA. That was when it became a firm offer, didn't it?

Mr. PORTER. Yes. It could not have been legally binding until ratified by the board of directors, which was not done until that day. That is right. But—

Mr. PECORA (interposing). All right. But go ahead.

Mr. PORTER. Now, it was pursuant to negotiations which were conducted for about 3 weeks prior to that time, and to an understanding verbally reached, with the general approval of the directors, to make this sale at \$25 a share; at least some 2 or 3 weeks prior to that time. The market at the particular date that the directors met and ratified the offering, was 31; you are quite correct on that.

Mr. PECORA. What I want to know is, why the stockholders of your company were not given an opportunity to subscribe not only for the 27,591 shares which were offered to them, but for the 40,000 shares—

Mr. PORTER (interposing). That we had already agreed to sell.

Mr. PECORA (continuing). That you agreed on April 28, the following day, to sell to Redmond & Co., William E. Levis, and the Owens Illinois Glass Co.

Mr. PORTER. As I have already stated I think, we had agreed with them verbally, and which was confirmed, to sell those shares at \$25.

Mr. PECORA. When did you make that agreement for those private sales?

Mr. PORTER. About 2 weeks prior to that time, 2 or 3 weeks prior to that time.

Mr. PECORA. Are you sure of that?

Mr. PORTER. Yes, sir.

Mr. PECORA. Well, now, I show you what purports to be a copy of a letter sent by your corporation, over your signature as its president, to Redmond & Co., dated April 27, 1933. Will you look at it and tell me if you recognize it as being a true and correct copy of a letter that you caused to be sent to Redmond & Co. on that date?

Mr. PORTER (after casually looking at the paper). No, sir; that is not, I think, the correct letter that we did send to them. I do not think that letter was ever signed. It is marked up here—

Mr. PECORA (interposing). It might interest you to know that that copy of a letter, the one I am showing you, came from the files of Mr. Levis. If the letter was never sent, how did it happen to be in his files?

Mr. PORTER. Well, this, doubtless, is a part of the drafts of the negotiations, or something of that kind. I do not doubt the existence of the thing, of its having been typed, but the letter was never signed. That letter was never signed. That is the day before the other letter was written.

Mr. PECORA. It is dated April 27, 1933.

Mr. PORTER. Yes.

Mr. PECORA. Are you sure that the original of this letter was never sent?

Mr. PORTER. I am very positive of it, sir.

Mr. PECORA. Well, you may sit down there at the table again.

Mr. PORTER. All right.

Mr. PECORA. Have you read this copy of the letter in full?

Mr. PORTER. No.

Mr. PECORA. Just take it and read it to yourself.

Mr. PORTER. All right. (After reading the paper.) Yes, sir; that is the situation.

Mr. PECORA. Now, are you sure, after having read it over, that that letter was never sent?

Mr. PORTER. Yes, sir; I am sure of it, so far as I can be sure of anything, sir. It is also marked "Not used" on here, as you will see by looking at it.

Mr. PECORA. Now, isn't it a fact that the original negotiations for the sale of the 40,000 shares which were eventually sold by private sale, as evidenced by the three letters put in evidence this morning, to Redmond & Co., William E. Levis, and the Owens Illinois Glass Co., were first proposed to be sold to Redmond & Co. in one block?

Mr. PORTER. No.

Mr. PECORA. And isn't that letter, a copy of which I have shown you and which you say was never sent, a letter that was sent as an evidence of such negotiations?

Mr. PORTER. No, sir. From the beginning the intent of this whole transaction was that the sale of these shares was to be to the Owens people, of which Mr. Levis was the representative. They were to be the purchasers.

Mr. PECORA. Well, then, why was any such letter ever drafted?

Mr. PORTER. Well, the only answer I can give you to that question is that this letter seems to be substantially, or to contain some of the same terms and conditions, as the letters which were finally written, and that at some juncture in the negotiations it was suggested that one letter be written to Redmond & Co. as Mr. Levis' bankers, I presume. This draft must have been prepared, but was never signed and never sent.

Mr. PECORA. Weren't you informed in the course of the negotiations to sell the whole block of 40,000 shares to Mr. Levis and his associates—that Mr. Levis' company would not take the entire block of 40,000 shares?

Mr. PORTER. That is correct; yes, sir.

Mr. PECORA. And weren't you apprized of that fact after April 27, 1933, which is the date of the copy of the letter I have just shown you?

Mr. PORTER. I think that is probably correct.

Mr. PECORA. And as a result of your being so notified that the Owens Illinois Glass Co. would not take the entire block of 40,000 shares, weren't the negotiations changed so as to provide for the sale of those 40,000 shares in these allotments: 20,000 shares to Levis, 10,000 shares to Owens Illinois Glass Co., and 10,000 shares to Redmond & Co.?

Mr. PORTER. That is right.



Mr. PECORA. And wasn't that form of the negotiations adopted on April 28, as evidenced by the three letters that we put into the record this morning?

Mr. PORTER. That is right; yes, sir.

Mr. PECORA. So that up to April 27, the offer that your company had, and which it was considering and negotiating to conclude, was to sell the entire block of 40,000 shares directly to the Owens Illinois Glass Co.

Mr. PORTER. That is right.

Mr. PECORA. Then, when those negotiations fell down on April 27, why weren't those 40,000 shares made available to your stockholders at \$25 per share instead of being made the subject of the negotiations that were concluded the following day, to sell those 40,000 shares in the aggregate, in the allotments that I have already indicated, to Mr. Lewis, to his company, and to Redmond & Co.?

Mr. PORTER. Well, Mr. Pecora, you now make your question clear to me and I will try to answer it.

Mr. PECORA. Please do.

Mr. PORTER. If we were legally relieved by that change, from selling that block to that group of people, for \$25 per share, your question is: Why didn't we then offer the whole lot of 40,000 shares to our stockholders?

Mr. PECORA. Yes; in addition to the 27,591 shares that you did offer to them.

Mr. PORTER. My answer to that question is this: That in the opinion of myself and of our board the mere fact that the shares had advanced temporarily to—well, we will say, had advanced to 31, or were being quoted at that price on that day, was not a sufficiently material change to have made it anywhere nearly possible to have made the large offering to the stockholders alone without bankers' underwriting.

Whether the knowledge of the fact that we had made a commitment to sell to the Owens Illinois group this block of shares at substantially the market price, and that they were going to put a million dollars of their own money into it, and as a result of this transaction about \$2,000,000 into our treasury, enabling it to pay off our bank loans, and whether with these people coming on our board to strengthen our picture, had anything to do with the advance in the shares, I don't know, or whether that was the general advance of the market. But the mere fact that the shares had advanced from around 24, 25, and 26 to 30 and 31 did not, in the opinion of our board, change the situation as to the great advisability of making this sale to these people on exactly the same terms, if they would still be willing to do it, as they had originally outlined; and the board knew all about it, and we considered that this was an advantageous trade. Does that satisfactorily answer your question?

Mr. PECORA. I am not looking for a satisfactory answer, but an answer based on the facts. It is not for me to say whether an answer is satisfactory or not, and it makes no difference to me, so long as it is based on the facts.

Mr. PORTER. All right. That is it.

Mr. PECORA. When did your board of directors conclude to offer 27,591 shares to the stockholders?

Mr. PORTER. At that time.

Mr. PECORA. Well, when? Your minute book would show, wouldn't it?

Mr. PORTER. Yes, sir. It was actually adopted on the 27th, was it not [inquiring of an associate]? Yes; it was April 27.

Mr. PECORA. Now, that was when the formal resolution was adopted by the board of directors of your corporation?

Mr. PORTER. Yes, sir.

Mr. PECORA. Providing for this offer to the stockholders?

Mr. PORTER. Yes, sir.

Mr. PECORA. Is that so?

Mr. PORTER. That is right.

Mr. PECORA. Have you a copy of the resolution that was adopted on April 27, 1933, by your board covering this offer to the stockholders?

Mr. PORTER. Yes, sir.

Mr. PECORA. Will you let me see it, please?

Mr. PORTER. This is a copy taken from the minute book, I believe.

Mr. PECORA. Now, the resolution you have shown me does not relate to the offer to the stockholders, does it?

Mr. PORTER. I did not look it over after it was handed to me.

Mr. PECORA. Look at it and see. That relates to the offer of the 40,000 shares to Mr. Levis or his interests.

Mr. PORTER. All right. We will get the minute book.

Mr. PECORA. For your possible guidance, let me point out to you that in the application which was made to the New York Stock Exchange under date of May 8, 1933, for an additional listing of 79,833 shares, the statement was made that the board of directors of your corporation authorized the offering to its stockholders of 27,591 of these additional shares.

Mr. PORTER. As to the meeting of April 27, it would seem that what I handed to you awhile ago was an extract from the original resolution of the same minutes.

Mr. PECORA. May I look at the minute book, please?

Mr. PORTER. Yes, sir [handing a minute book to Mr. Pecora].

Mr. PECORA. This is what I want to call your attention to. Let me read to you the following from the minutes of the board of directors of your corporation held on April 27, 1933, at which were adopted resolutions authorizing the sale of 40,000 shares at private sale to Mr. Levis and the persons associated with him, and at which meeting there was also adopted a resolution to offer 27,591 shares to stockholders of record. I will read the extract as follows:

The chairman then advised that pursuant to the purpose for which such additional 200,000 shares of common stock had been authorized; that is, to be issued by the board of directors in their discretion, if and when they believed it to be in the best interests of the corporation so to do, in preparation for meeting the anticipated expansion and development of the operations of the corporation as outlined in the annual report to stockholders dated March 21, 1933, recent negotiations had taken place, with which he believed the most of the directors were familiar, with Mr. William E. Levis, president of the Illinois Glass Consolidated Corporation, regarding a proposed sale to the Illinois Glass Consolidated Corporation and to Mr. William E. Levis, and a group of individuals represented by him, of an aggregate of 40,000 shares of the common stock of the corporation at a price of \$25 per share.

The chairman also advised that in such negotiations it had been considered that the corporation would also offer for subscription to its stockholders rights to subscribe, at the same price, namely, \$25 per share, sufficient shares of new

common stock to give each present common stockholder the right to subscribe for one new share of common stock at the price of \$25 per share for each 10 shares of stock now held, which would call for the offering to stockholders of an aggregate of 27,591 additional shares.

He stated that it was not proposed that the 40,000 shares to be issued to the Illinois Glass Consolidated Corporation, Mr. Levis and his group, would be entitled to participate in such rights to subscribe.

Now, after having heard that extract from the minutes read, do you recall that in connection with the very negotiations you had been conducting in behalf of your corporation to sell to Mr. Levis and his corporation and his group the 40,000 shares of your stock at \$25 per share, it had also been decided upon to offer 27,591 shares to your stockholders at the same price of \$25 per share?

Mr. PORTER. Yes, sir.

Mr. PECORA. And both decisions were part and parcel of the negotiations with Mr. Levis and his group, weren't they?

Mr. PORTER. That is right.

Mr. PECORA. Well, in view of that fact why didn't you conclude to sell all those 67,591 shares directly to your stockholders, giving them the benefit of subscribing for the shares at \$25 per share, when the shares of your company were selling at around \$31 in the market?

Mr. PORTER. Because, as I previously stated, it was the judgment of our board of directors that we could not make such an offering or rather that if we made such an offering it would probably not be taken up by the stockholders.

Mr. PECORA. Well, the 27,591 shares were all subscribed for by your stockholders, weren't they?

Mr. PORTER. They were. But if there hadn't been this sale of the block of 40,000 shares made to outside parties, with fresh capital coming into our company, it was very doubtful whether any further shares would have been taken by our existing stockholders; and, of course, stockholders do not subscribe to rights unless there is a prospective profit or advantage in it.

Mr. PECORA. Of course not. But when the stock was selling for around \$30 or \$31 a share at the very time the stock was offered to stockholders at \$25 per share, had you any reason to believe the stockholders would not have availed themselves of their rights and subscribed for all of those shares?

Mr. PORTER. There is no guarantee of such a thing, Mr. Pecora. And I think we had to give them practically 30 days in which to avail themselves of that right, and inasmuch as market fluctuations are apt to be very wide, as we know, had there been any decline in the period between the board meeting and the necessary authorizations and notices that would have had to be mailed, and the time that would elapse before they had to make a decision, if the market had declined in that time, the stockholders probably would not have taken even the 27,591 shares offered.

Mr. PECORA. Well, apparently at the period in those negotiations between Mr. Levis and his group and the company, it was perfectly safe to offer to the stockholders the 27,591 shares at \$25 per share.

Mr. PORTER. It was safe, yes; but there was no assurance that they would take them had the market gone back, and they probably would not have done so. You must bear in mind that we were trying to



accomplish something that would meet the conditions existing at the time, when we had bank loans of upwards of one and a half million dollars, and that——

Mr. PECORA (interposing). In connection with that please bear in mind the statement made to the board of directors at this meeting, which I have read, which was that this additional stock was to be issued in order to enable the company to expand its business, not to pay off any maturing bank loans.

Mr. PORTER. Well, if you will carefully read that statement you will also see that it refers to the annual report made to stockholders, which was very complete, which gave a complete exposition of our situation, and which was mailed late in March. We make a very complete annual report to our stockholders, not only a verbal report of the whole condition, but a financial statement, and that financial statement showed that we had very substantial bank loans. That annual report advised the stockholders, and that was following the election which had taken place in the fall of the previous year, and that the party which was placed in power by a large majority was committed to repeal; and we had to look forward to the possibility in the near future of repeal of the prohibition amendment. We therefore would try to prepare ourselves financially for an expansion of our activities. The first step necessary in expansion would be to relieve ourselves of our bank loans.

Mr. PECORA. Now, that is not what the term "expansion" usually means, is it?

Mr. PORTER. Most certainly, sir.

Mr. PECORA. When you raise capital for expansion purposes you are not raising it to pay off maturing loans.

Mr. PORTER. We certainly would not have been permitted by the bankers to have expanded until we discharged our current obligations. We were borrowing money on open account, that is, on 90 days, or 30 days, or 60 days, and this sale of those 40,000 shares, which was a firm sale, produced a million dollars. Now——

Mr. PECORA (interposing). But this firm sale did not become a firm sale until April 28, did it?

Mr. PORTER. That is correct.

Mr. PECORA. And that was the date that the offer was made to the stockholders of the 27,591 shares.

Mr. PORTER. That is right.

Mr. PECORA. Did it occur to you that by issuing and selling on private terms to Mr. Levis and his group the 40,000 shares at the same time you were offering the 27,591 shares to your stockholders, that you might be prejudicing the value of the stock to the stockholders, I mean by the issuance and sale of the other 40,000 shares?

Mr. PORTER. That was very thoroughly discussed, yes, sir.

Mr. PECORA. And what conclusion did you come to?

Mr. PORTER. This was the conclusion we reached, the one adopted.

Mr. PECORA. That it would not prejudice the stockholders, do you mean?

Mr. PORTER. We have on our board, who were familiar with this matter, some of the large holders of the stock, and the thing was very thoroughly discussed.

Mr. PECORA. In the course of the discussions you must have reached the conclusion that your stockholders would subscribe for the 27,591 shares.

Mr. PORTER. Not necessarily. But it looked, on the date when that action was taken and the offer was made, that if we did not have a decline in the market or a change in conditions, that they would take it.

Mr. PECORA. And you did not expect a decline in the market at the date you made this offer to your stockholders, did you?

Mr. PORTER. I beg your pardon, but the resolution was adopted on the 27th of April, and the stockholders got it several days later, after printing and mailing, and then they had 30 days, or at least 20 days, to avail themselves of the offer, and no one will avail himself of an offer, practically speaking, until the eve of the expiration date.

Mr. PECORA. Was this offer to subscribe declined by anybody?

Mr. PORTER. No, sir.

Mr. PECORA. Wasn't it practically certain that the stockholders would subscribe for all of it?

Mr. PORTER. No, sir. There was a risk. We decided we would not pay the expense of underwriting. I had discussed with bankers prior to these negotiations the cost of underwriting what would approximately produce a million or a million and a half dollars, and we found that that would probably cost us a minimum of 2 or 2½ points, and that we could only get such underwriting at such an expense; and we would have been subjected, I believe, to much criticism if the market had gone up and things had gone well, had we made the underwriting with bankers and agreed to pay them 2 or 2½ points, or whatever we had to pay. If things had gone very well the stockholders would then have said to us—and this is just on the question you are asking me now—Why didn't you offer all of it to us?

We felt that the fair thing to do here was to offer the shareholders 1 share in 10 at the same price, to put the company to no expense for underwriting, and with the great hope and expectation that the market would hold and the shareholders would take it, which is what happened.

Mr. PECORA. For all you know, the same thing would have happened if the entire issue of 67,000 shares had been offered to the stockholders.

Mr. PORTER. I do not think so, for this reason, that a good deal of that stock was held in fairly large blocks. This was just after the bank holiday in March. The country was in terrible condition.

Mr. PECORA. No: this was April 27.

Mr. PORTER. I say, the bank holiday was in March, about 40 days before that, and most of our largest shareholders, with whom we could talk, while on the one hand anxious to preserve as much of their equities as possible by not selling any more shares to anyone else than necessary, were, on the other hand, in such financial condition that they would not be very enthusiastic about being asked to make a further subscription to shares at or around the market, or even below it.

Mr. PECORA. I think that is all of this witness. Have you any statement to make or any information you would like to give the committee without being questioned specifically, Mr. Porter?

Mr. PORTER. I do not think so, sir.

Mr. PECORA. You have the opportunity now of doing it if you desire to do so.

Mr. PORTER. I do not think there is anything else.

Mr. PECORA. Is there anything else you want to tell the committee with regard to the various matters and transactions that you have been examined about?

Mr. PORTER. I think that is a complete statement.

Mr. PECORA. All right.

The CHAIRMAN. You may be excused, Mr. Porter.  
(Witness excused.)

Mr. PECORA. Is Mr. Levis here?

I want to have marked for identification only, Mr. Chairman, the copy of the letter shown the witness, and which he stated was not sent. It was drafted, but not sent, dated April 27, 1933, and addressed to Redmond & Co.

(Copy of draft of letter, Apr. 27, 1933, National Distillers to Redmond & Co., was marked "Committee's Exhibit No. 77", for identification, Feb. 22, 1934, and the same is held in the files of the committee.)

**TESTIMONY OF WILLIAM E. LEVIS, TOLEDO, OHIO, PRESIDENT  
OWENS-ILLINOIS GLASS CORPORATION**

The CHAIRMAN. You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. LEVIS. I do.

Mr. PECORA. Mr. Levis are you connected with the Owens-Illinois Glass Co.?

Mr. LEVIS. I am president of that company.

Mr. PECORA. How long have you been connected with the company in that capacity?

Mr. LEVIS. Four and a half years, sir.

Mr. PECORA. You are also a director?

Mr. LEVIS. Yes, sir.

Mr. PECORA. And a stockholder, of course?

Mr. LEVIS. Yes, sir.

Mr. PECORA. Have you heard the testimony given today before this committee by the preceding witness, Mr. Seton Porter?

Mr. LEVIS. Yes, sir.

Mr. PECORA. You heard references to William E. Levis in that testimony?

Mr. LEVIS. Yes, sir.

Mr. PECORA. You are the Mr. Levis referred to in that testimony. are you not?

Mr. LEVIS. Yes, sir.

Mr. PECORA. Without going over the details of the transactions referred to by Mr. Porter, with respect to the options that were given to you by the National Distillers Products Corporation, will you tell the committee whether or not you exercised that option in full?

Mr. LEVIS. I exercised the option in full.



Mr. PECORA. You also purchased the 20,000 shares of stock referred to in that option letter in addition to the 12,000 shares that were optioned to you?

Mr. LEVIS. Yes, sir.

Mr. PECORA. Twenty thousand shares were purchased by you at \$25 a share, and 12,000 shares were optioned to you at \$27.50 a share?

Mr. LEVIS. Yes, sir.

Mr. PECORA. At the same time did your corporation, namely, the Owens-Illinois Glass Corporation, buy 10,000 shares at \$25 a share, referred to in the letter offered in evidence here this morning, dated April 28, 1933?

Mr. LEVIS. May I correct that, Mr. Pecora? You have made that statement before. The Owens-Illinois Glass Co. have never made an investment in any of their customers' business. The investment was made by the Illinois Glass Consolidated Corporation, now called Illinois Glass Co., of which I am also president.

Mr. PECORA. Is that a corporation separate and distinct from the Owens-Illinois Glass Corporation?

Mr. LEVIS. Yes, sir. It has nothing to do with it except that it is a large stockholder of Owens-Illinois Glass Co. stock. It was formerly the Illinois company's assets that were sold that caused the Owens Bottle Co. to become Owens-Illinois Glass Co.

Mr. PECORA. Then these 10,000 shares were not purchased by the Glass Manufacturing Co. known as the Owens-Illinois Glass Co., but were purchased by this other corporation called the Owens-Illinois—

Mr. LEVIS. Called the Illinois Glass Consolidated Corporation.

Mr. PECORA. That company bought those 10,000 shares at \$25 a share?

Mr. LEVIS. Yes, sir.

Mr. PECORA. Under the terms of the letter of April 28, 1933.

Mr. LEVIS. Yes, sir.

Mr. PECORA. Now, at the same time, you heard Mr. Porter testify, a sale was made to Redmond & Co. of 10,000 shares of the common stock of National Distillers Products Corporation, also at \$25 a share.

Mr. LEVIS. Yes, sir.

Mr. PECORA. Did you have any interest in that sale?

Mr. LEVIS. I had an option on those 10,000 shares at \$27, good for 5 days.

Mr. PECORA. That option was given to you by Redmond & Co.?

Mr. LEVIS. Yes, sir.

Mr. PECORA. Did you exercise that option?

Mr. LEVIS. Yes, sir.

Mr. PECORA. And took down all the 10,000 shares?

Mr. LEVIS. Yes, sir.

Mr. PECORA. So that all told, you acquired individually 42,000 shares of the National Distillers Products Corporation?

Mr. LEVIS. Yes, sir.

Mr. PECORA. At these prices?

Mr. LEVIS. Yes, sir.

Mr. PECORA. 20,000 shares at \$25 a share, 10,000 shares at \$27 a share, and 12,000 shares at \$27.50 a share.

Mr. LEVIS. Yes, sir.

Mr. PECORA. Did you hold those shares or did you dispose of them shortly after you acquired them?

Mr. LEVIS. I disposed of them shortly after I acquired them.

Mr. PECORA. In the open market?

Mr. LEVIS. Yes, sir.

Mr. PECORA. Through what broker or brokers?

Mr. LEVIS. Redmond & Co.

Mr. PECORA. Did you have a joint account with them in any of those shares?

Mr. LEVIS. I had a joint account with Mr. Mason Day, of that company, in the shares.

Mr. PECORA. When was that joint account formed, Mr. Levis?

Mr. LEVIS. Sir?

Mr. PECORA. When was that joint account formed with Mr. Day?

Mr. LEVIS. On April 29.

Mr. PECORA. 1933?

Mr. LEVIS. Yes, sir.

Mr. PECORA. How many shares were involved in that joint account?

Mr. LEVIS. On the original purchase, 20,000 shares were involved, and of the option, I abandoned the joint account plan as outlined in the letter, with Mr. Day's mutual consent. I took down all of the optioned shares and actually sold to Mr. Day 7,250 shares at \$29.16 per share, retaining myself 4,750 shares, that cost me \$27.50 a share.

Mr. PECORA. What was the purpose of the formation of the joint account with Mr. Day, Mr. Levis?

Mr. LEVIS. I did not feel that I could at that time afford to purchase all the shares personally.

Mr. PECORA. As a matter of fact, what was the apportionment of interest between you and Mr. Day in that joint account?

Mr. LEVIS. May I state that there was an account, 10,000 of the 20,000, that ran to me, in which I had other associates of mine who paid for 7,700 shares of that stock of the first 10,000 out of the 20,000 that ran to me. I took the balance of those shares directly myself, with no participation on the part of Mr. Day. On the remaining 10,000 shares, Mr. Day was joint account with me at a price of 26 or better, and on the 10,000 shares that I received through Redmond, he was joint account with me at 27 or better.

Mr. PECORA. What was the purpose of the formation of the joint account with Mr. Day?

Mr. LEVIS. I might answer it in Mr. Day's words and the words of Mr. Wright, "to distribute the stock and make a profit."

Mr. PECORA. Was trading done for that joint account after its formation?

Mr. LEVIS. Mr. Day was more or less the manager of the matter. My records, as audited by Arthur Young & Co., indicate that in one of the 10,000-share blocks 400 shares were bought that were subsequently distributed, and in the other 10,000-share blocks 13 hundred shares were bought that were again distributed, so that we really, in distributing 20,000 shares, dealt in 3,700 shares—I mean in 2,100 shares.

The CHAIRMAN. Did you employ any publicity agents or make any effort to boost the stock?

Mr. LEVIS. No, Mr. Chairman. They were all open-market transactions.

Mr. PECORA. In those market transactions did not the account buy and sell in order to enable it to make its distribution?

Mr. LEVIS. In the only accounts that I had anything to do with, Mr. Pecora, one account bought 400 shares which it subsequently sold, and another account bought 13 hundred shares which it subsequently sold. The only shares purchased that were not received directly from National Distillers or Redmond & Co. were those 17 hundred shares.

Mr. PECORA. Was that the only joint account or syndicate account that you participated in which traded in the stock of the National Distillers Products Corporation during the year 1933?

Mr. LEVIS. So far as I can recall, sir.

Mr. PECORA. In connection with the operations to dispose of the stock which you agreed to purchase, and did purchase directly from the National Distillers Products Corporation, as well as the stock that was optioned to you by that corporation, was it necessary at any time for you to make any payments for that stock, except out of proceeds derived by you from the sale of the stock in the market against those purchases or options?

Mr. LEVIS. In answering that, Mr. Pecora, I thought of it as an entire block of 40,000 shares. There was paid by me \$250,000 for the Illinois Glass Co.'s 10,000; \$192,500 for my other associates' 7,700; and I banked the balance of it at Redmond. It would have been no different, in my own mind, had I gone to a bank at which I had credit and borrowed the money and put the dollars at Redmond, than if I had gone to Redmond and put up my option agreement, or any other collateral, and borrowed the money from Redmond with which to make the payment.

Mr. PECORA. The 10,000 shares that were taken over by the company, the Owens Glass Co., or corporation, were not a part of the joint account with Day?

Mr. LEVIS. No, sir.

Mr. PECORA. So, we will leave those 2,000 shares out of the reckoning for the time being. The corporation paid for 10,000 shares, of course.

Mr. LEVIS. Yes, sir.

Mr. PECORA. And did not dispose of them in any market operation, and probably still have them.

Mr. LEVIS. They still have them.

Mr. PECORA. Confining ourselves, then, to the 32,000 shares, represented by the 20,000 you bought directly from the National Distillers, and the 12,000 optioned to you by the National Distillers, and the 10,000 that you took over from Redmond at \$27, was it necessary for you to put up any moneys out of funds other than those derived from sales which you had made in the market against those purchases and against that option?

Mr. LEVIS. Nothing other than the \$192,500 that was put up by my associates.



Mr. PECORA. That covered the 7,700 shares that did not go into the distribution.

Mr. LEVIS. That is right. Other than that, no funds were put up.

Mr. PECORA. And that was due to the fact, was it not, that you sold through Redmond & Co. shares from time to time against the purchase contracts and against the option?

Mr. LEVIS. Yes, sir; and on the same basis as the purchase contract and the option. The option was never involved in that, Mr. Pecora. On the 22,300 shares that I had, 20,000 of which was joint account with Mr. Day, we were practically out of all those shares on an "as-and-when-issued" basis, by the time we had delivery of shares that we had a contract to be delivered to us on an "as-and-when-issued" basis.

Mr. PECORA. In other words, you had sold those shares short against the purchase contracts and the option.

Mr. LEVIS. Technically short, Mr. Pecora.

Mr. PECORA. I do not mean short sales in the sense that short sales are used as part of the process called "bear raiding." I do not mean that.

Mr. LEVIS. I had secured an underwriting from others on the same basis.

Mr. PECORA. When was that joint account you had with Mr. Day terminated?

Mr. LEVIS. I have a memorandum——

Mr. PECORA. There was more than one joint account, was there not, with Mr. Day?

Mr. LEVIS. I had three accounts, sir, dealing in the 30,000 shares, namely, account 42, which dealt in the 10,000 shares that Mr. Day did not participate in; account 44, which dealt in the 10,000 shares which he did participate in above 26; and account 43, in which he participated above 27.

Mr. PECORA. Yes.

Mr. LEVIS. All those accounts were closed, as per a letter from Redmond & Co., dated May 13, sending me a complete statement of those accounts and a remittance for whatever profit I had from those accounts.

Mr. PECORA. Have you got that letter?

Mr. LEVIS. Yes, sir.

Mr. PECORA. Will you give the figures?

Mr. LEVIS. Statement of account no. 42, \$22,298; account 43, \$18,014; account 44, \$15,859.50. That letter is schedule no. 35 I filed with your representative.

Mr. PECORA. The profits that you have given us were simply the cash profits, were they not?

Mr. LEVIS. They were the cash profits from those accounts.

Mr. PECORA. Was there not, in addition to that, a profit in stock?

Mr. LEVIS. Not from the 30,000.

Mr. PECORA. But from the 42,000 aggregate.

Mr. LEVIS. Yes, sir.

Mr. PECORA. What did that amount to?

Mr. LEVIS. I received 12,000 shares, which I paid \$27.50 for, or \$330,000. I sold, of that, 9,500 shares for \$345,000, making a cash profit of \$15,254.75, and 2,500 shares that had a cost price to me of \$68,750.

Mr. PECORA. That is all, unless you have some statement to make, or any other details you want to give with regard to these transactions.

Mr. LEVIS. Thank you.

(Witness excused.)

### TESTIMONY OF HENRY MASON DAY—Resumed

Mr. PECORA. Mr. Day, did you hear the testimony of Mr. Seton Porter with regard to the options in the form of puts and calls which the National Distillers Products Corporation gave to Redmond & Co. during the year 1932?

Mr. DAY. Yes, sir.

Mr. PECORA. Is there anything you want to add to the testimony which Mr. Porter gave with regard to those options?

Mr. DAY (after conferring with an associate). There is nothing to add, Mr. Pecora.

Mr. PECORA. In connection with those puts and calls, did you assign or give any interest therein to Wright and Sexton?

Mr. DAY. My recollection is that we did; yes, sir.

Mr. PECORA. What was that done for? What was your purpose in doing that?

Mr. DAY. Because I personally am not on the floor of the stock exchange, nor do I in any way pretend to know anything about the floor operations, and I consider that Charlie Wright is an outstanding man in that respect.

Mr. PECORA. That is, he is in a better position to make a market?

Mr. DAY. Not only that, but he was in a better position to feel the trend of the market.

Mr. PECORA. You heard the testimony also, I presume, of Mr. Porter with regard to the options which his company gave on the common stock of the company to Redmond & Co., or, rather, the commitment it made to sell Redmond & Co. 25,000 shares?

Mr. DAY. Yes, sir; I did.

Mr. PECORA. You heard the testimony about the option for 12,000 shares given to Mr. Levis?

Mr. DAY. I did, sir.

Mr. PECORA. Did you have any interest in that option covering the 12,000 shares?

Mr. DAY. Yes, sir; I did.

Mr. PECORA. Will you state the nature of it?

Mr. DAY. At the commencement I had a 50 percent interest in that option, and on or before the 15th of June—between the 10th and the 15th—Mr. Levis told me that he wanted to clean it up and abandon it, and I said: "Well, if you feel that way about it, all right; I will take what is left."

Mr. PECORA. Referring to the 42,000 shares of the common stock of National Distillers Products Corporation which were sold by that corporation to Levis and to Redmond & Co. under the agreements of April 28, 1933, that were put in evidence this morning, the total purchase price for those shares fixed by the agreements was \$1,080,000, was it not?

Mr. DAY. If you have that figure there. Was it 42,000, Mr. Pecora, or was it 40,000?

Mr. PECORA. Forty-two thousand. That includes the 12,000-share option.

Mr. DAY. I see.

Mr. PECORA. And the 30 thousand shares, which excludes the 10 thousand shares that the glass corporation took over and paid for.

Mr. DAY. Yes.

Mr. PECORA. That was \$1,080,000, as I understand.

Mr. DAY. That is correct, sir.

Mr. PECORA. Is it not a fact that those shares, those 42,000 shares, were disposed of shortly after their acquisition, and were taken down without the necessity of putting up any money other than the moneys realized from technical short sales that were made against the purchase contracts and the option agreement?

Mr. DAY (after conferring with an associate). Mr. Gibson tells me that that is the figure here, and according to the figures compiled by him, there was a matter of \$57,500 put up by Redmond.

Mr. PECORA. By Redmond & Co.?

Mr. DAY. Yes, sir; in addition to the \$192,000 which Mr. Levis spoke of.

Mr. PECORA. That \$192,000 was paid by the persons to whom an aggregate of 77 thousand shares were sold direct, isn't that so?

Mr. DAY. That is right, sir.

Mr. PECORA. The balance of these 42 thousand shares was disposed of in the open market through Redmond & Co.

Mr. DAY. Yes, sir.

Mr. PECORA. How long did the distribution take?

Mr. DAY. I do not know off-hand. [After conferring with an associate.] Mr. Gibson tells me about June 15.

Mr. PECORA. What profits were distributed at the end of the period of distribution of the stock, in cash, and what in stock?

Mr. DAY. As far as Mr. Levis was concerned, just exactly what he testified, from his Arthur Young statement; and I took over the balance of that stock and carried it along in my accounts.

Mr. PECORA. What was the amount of stock that was left over at the end of the account?

Mr. DAY (after conferring with an associated). Mr. Gibson tells me I took down 21,000 shares of stock and certain cash profits, on which he has not the figure.

Mr. PECORA. Have you the total cash profits from the transactions?

Mr. DAY. No, sir; I have not, because it carried into the other accounts. I simply put it in my accounts.

Mr. PECORA. Our analysis, made from records which Redmond & Co. have made available to us, show a distribution of cash profits of \$252,158.75; and of 4,600 shares which, on July 26, 1933, had a market value of about \$345,000.

Mr. DAY. In other words, your figures show that the profit which was made by us was approximately \$345,000.

Mr. PECORA. In stock; and in cash of \$252,000.

Mr. DAY. I have no figures on it.

Mr. PECORA. Making a total of about \$597,000.

Mr. DAY. I have no figures on it, so I cannot very well answer. I am perfectly willing to accept your figures.



Mr. PECORA. If you find that our calculations are incorrect, will you notify us, and we will have the correction made on the record?

Mr. DAY. I will be only too glad to. I have not closed the accounts, as far as I am concerned. Unfortunately, I took very considerable losses in other things in my accounts. However, Mr. Pecora, I am very glad to accept those figures and, as you say, if there is any difference that we find, we will send you a statement.

Mr. PECORA. Did your firm have any options covering any shares listed on the New York Stock Exchange other than the options that have been discussed here in the evidence, with respect to the American Commercial Alcohol Corporation and the National Distillers Products Corporation?

Mr. DAY. What was the year?

Mr. PECORA. When I say your firm, I mean your firm or any of the partners therein.

Mr. DAY. I have copies of them, which I think you are also holding, the first one of which is the 1932, National Distillers Products; 1933, Libbey-Owens-Ford; 1933, American Water Works; 1931, Petroleum Corporation of America; 1933 to February 1934, Graham-Paige; 1932 to 1933, Warren Foundry and Pipe; 1933, Consolidated Aircraft; 1932, Zonite Products; 1931, Houdaille-Hershey; 1933, Barnsdall Corporation.

Mr. PECORA. I believe your firm has turned over to us photostatic copies of all those options.

Mr. DAY. That is my understanding, sir.

Mr. PECORA. I have before me the photostatic copies that were received from your firm. I will ask you to look at them and see if they are true and correct copies of those option contracts [handing papers to the witness].

Mr. DAY. I notice that some of these that you hand me I have not on my list here.

Mr. PECORA. Do you recognize them as copies of options that your firm, or any member of your firm, had?

Mr. DAY. I was neither a partner of my firm at this time, nor was I an employee, which I was before I became a partner of this firm. Some of them are dated 1930, which I know nothing about.

Mr. PECORA. Mr. Gibson, will you look at the photostatic copies of options?

Mr. DAY. I just cannot tell about something I do not know the first thing in the world about. I will say substantially, Mr. Pecora, unquestionably they are photostatic copies of records which you got from our office, and our name seems to be contained in all of them, back as far as 1929, and we had something to do with them.

Mr. PECORA. Do they constitute copies of all the options that were given by anyone to Redmond & Co., or any of its partners, during the years 1929 to 1933, both inclusive?

Mr. GIBSON. If these were submitted in answer to your questionnaire, they do.

Mr. PECORA. I will offer them in evidence, Mr. Chairman, as one exhibit, and they can be marked. Each separate option may be marked "A, B, C, D, E", and so forth, with the exhibit number.

The CHAIRMAN. Let them be admitted.

(Copies of options given to Redmond & Co., 1929 to 1933, were received in evidence, marked "Committee Exhibit No. 78, Feb. 22,

1934", and the same will be found at the conclusion of today's proceedings.)

The CHAIRMAN. Is it the common practice for members of the exchange to operate under options like these?

Mr. DAY. I think it is, sir.

Mr. PECORA. And the purpose of obtaining these options is to enable the optionee to distribute the stock covered by the options at a profit through the medium of market operations?

Mr. DAY. Market or private. In other words, the object of obtaining one of these options, most naturally, is to make some money legitimately.

Mr. PECORA. Now, you are going to enter into a long controversy.

Mr. DAY. I will leave that out, rather than take the time. All right; to make money. I want to finish as bad as anybody.

Mr. PECORA. It was a practice under which members of the exchange from time to time conducted market operations at a profit to themselves; isn't that so?

Mr. DAY. Yes.

Mr. PECORA. And the operations would be both on the buying and selling side in order to stimulate the market and create an additional activity in the market by means of which the distribution at a profit was effected?

Mr. DAY. Yes, sir.

Mr. PECORA. I think that is all I have to ask.

Mr. DAY. The same as they put the dummies in the bus to get other people to ride.

The CHAIRMAN. You may be excused, Mr. Day.

Mr. PECORA. Is Mr. Bowers here?

#### TESTIMONY OF HENRY S. BOWERS, PARTNER IN GOLDMAN, SACHS & CO., NEW YORK CITY

The CHAIRMAN. Mr. Bowers, come forward and be sworn, please.

You do solemnly swear that the testimony you are about to give in the matters under investigation by this committee will be the truth, the whole truth, and nothing but the truth. So help you God.

Mr. BOWERS. I do.

Mr. PECORA. Mr. Bowers, what is your full name and address, please?

Mr. BOWERS. Henry S. Bowers, 30 Pine Street, New York.

Mr. PECORA. Are you connected with the firm of Goldman, Sachs & Co.?

Mr. BOWERS. Yes, sir.

Mr. PECORA. How long have you been connected with that firm?

Mr. BOWERS. Thirty-four years.

Mr. PECORA. In what capacity are you now connected with them?

Mr. BOWERS. First as an employee and since 1915 as a partner.

Mr. PECORA. And what is the business of Goldman, Sachs & Co.?

Mr. BOWERS. Banking, general.

Mr. PECORA. I show you what purports to be a photostatic copy of a letter addressed to the secretary of the Committee on Business Conduct of the New York Stock Exchange under date of August 4, 1933, signed "Goldman, Sachs & Co." Will you look at it and tell

me if you recognize it to be a true and correct copy of a letter sent by Goldman, Sachs & Co. to the secretary of the Committee on Business Conduct of the New York Stock Exchange on the date which that copy bears?

Mr. BOWERS (after examining document). Yes, sir.

Mr. PECORA. Did you cause that letter to be sent, Mr. Bowers?

Mr. BOWERS. No. One of my partners.

Mr. PECORA. Are you familiar with the circumstances under which it was sent?

Mr. BOWERS. Yes, sir.

Mr. PECORA. And are you familiar with the transaction or matter to which the letter refers?

Mr. BOWERS. Yes, sir.

Mr. PECORA. I offer that letter in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Aug. 4, 1933, from Goldman, Sachs & Co. to secretary, committee on business conduct, New York Stock Exchange, was thereupon designated "Committee Exhibit No. 79, Feb. 22, 1934", and the same appears in the record in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. The letter received in evidence is exhibit no. 79 of this date and written on the letterhead of Goldman, Sachs & Co., and reads as follows:

[CONFIDENTIAL]

KELSEY HAYES WHEEL COMPANY,

*New York, August 4, 1933.*

SECRETARY, COMMITTEE ON BUSINESS CONDUCT,  
New York Stock Exchange, Room 608,  
11 Wall Street, New York, New York.

DEAR SIR: Referring to your circular C5222, there was existing at the close of business on August 2, 1933, an account, managed by us, known as

KELSEY HAYES WHEEL COMPANY  
CLASS A STOCK  
AND  
CLASS B STOCK  
JOINT TRADING ACCOUNT

in which Lehman Brothers and ourselves each have a 50% interest. A copy of the agreement covering such Account, which expires August 5, 1933, is enclosed herein.

Such Account is short 900 shares of Kelsey Hayes Wheel Company Class "A" Stock and 1,000 shares of Class "B" Stock, the aforesaid short positions being offset by long positions in Firm Account.

Such Joint Trading Account was organized for the purpose of creating a fair market in such stock, at the request of the New York Stock Exchange.

Very truly yours,

(Signed) GOLDMAN, SACHS & Co.

(Enclosure.)

Now, Mr. Bowers, will you tell the committee the details concerning the organization of the joint trading account referred to in this letter?

Mr. BOWERS. Following the reorganization of the Kelsey-Hayes Wheel Co., which was about completed in February in 1933, there came into existence this class A and class B stock of the reorganized company. The holders of the old Kelsey-Hayes Wheel Co. preferred and common shares, which were listed on the stock exchange, were



to receive in the reorganization, among others, certain amounts of the new A and B stock, and in the ordinary course of business application was made to the stock exchange to list these shares.

Mr. PECORA. Just a moment at that point: Is this the application that was made to list those shares, or is that a copy of it [handing paper to Mr. Bowers]?

Mr. BOWERS (after examining document). I presume it is; yes, sir.

Mr. PECORA. I offer it in evidence, but ask that it be not spread in full in the minutes, because of its size.

The CHAIRMAN. Let it be admitted, under those conditions.

(Application of Kelsey-Hayes Wheel Co., dated Feb. 1, 1933, to committee on stock list, New York Stock Exchange, was designated "Committee Exhibit No. 80, February 22, 1934", is filed among the records of the committee, but is not copied in this record.)

Mr. BOWERS. In connection with this application to list, the listing committee of the stock exchange, with whom we were to take the matter up, said to us that prior to listing they wished to be assured that there would be an ordinary, orderly market in the new shares. There had been no sales to the public of these new shares. They, therefore, were uncertain as to just their status, and they wished Lehman Bros. and ourselves, as reorganization managers, to undertake to see that the market in the shares was orderly for a reasonable period of time—let us say for 4 to 6 months.

Their request, as detaile dto us, was that we should keep a bid for the stock in the market for a few hundred shares and an offer for the stock in the market for a few hundred shares at a reasonable spread, their fear being that the stock might be \$2 bid and \$8 or \$10 offered, and they did not wish these old stockholders of the Kelsey-Hayes Wheel Co. to be penalized either in buying or selling the stock of the reorganized company by the existence of a wide spread such as I have mentioned.

We therefore told the listing committee, Lehman Bros. and ourselves, that we would endeavor to maintain an orderly market, and by that that we would see that if other bids were not in the market or other offers were not in the market at a reasonable spread, we would undertake to put the bids in or offers in, as the case might require, at a reasonable spread, and we so did for a period of upward of 6 months—little over 6 months.

Mr. PECORA. And that is the joint trading account referred to in this letter addressed to the secretary of the business conduct committee, which has been marked in evidence as exhibit no. 79?

Mr. BOWERS. Yes, sir.

The CHAIRMAN. Were there any others participating in that arrangement?

Mr. BOWERS. No, Senator. Merely Lehman Brothers and ourselves, who were the reorganization managers of the old company. It was a part of our job as completing the reorganization.

Mr. PECORA. Are there any other facts you want to bring to the notice of the committee with regard to this matter, Mr. Bowers?

Mr. BOWERS. I would like to say, Mr. Pecora, that there was an earlier letter written at the inception of the account to the stock exchange embodying our undertaking, and I think you have a photostat copy of that letter.

Mr. PECORA. Is this the letter to which you refer, copy of which I now show you?

Mr. BOWERS (after examining document). Yes, sir; I would think that perhaps that was it.

Mr. PECORA. I offer that in evidence.

Mr. BOWERS. And would you have that read also in the minutes?

The CHAIRMAN. Let it be admitted.

(Letter dated Feb. 7, 1933, from Goldman, Sachs & Co., and Lehman Bros. to committee on stock list, New York Stock Exchange, was designated "Committee Exhibit No. 81, February 22, 1934", and appears in the record immediately following, where read by Mr. Pecora.)

Mr. PECORA. The letter just received in evidence as committee exhibit no. 81, on the letterhead of Goldman, Sachs & Co., reads as follows (reading):

NEW YORK, February 7, 1933.

COMMITTEE ON STOCK LIST, NEW YORK STOCK EXCHANGE.

New York City.

(Attention of Mr. Hoxsey.)

DEAR SIR: In connection with the application of Kelsey-Hayes Wheel Company for the listing of shares of its Class A and the Class B stock on the New York Stock Exchange, we shall, in accordance with your request, upon the listing of these shares, put in bids and offers for these shares and endeavor to maintain an orderly market therefor for a reasonable length of time thereafter. We shall do this unless extraordinary general market conditions develop.

With reference to so-called "lend or sell" letters—the words "lend or sell" being in quotation marks—from among the largest stockholders of the company, we have communicated with the five largest and in each case have been told that they will be glad to give such a letter. We are engaged in getting these letters and shall promptly advise you when received.

Very truly yours,

(Signed) GOLDMAN, SACHS & Co.  
LEHMAN BROS.

Now, is there anything else you want to call to the attention of the committee with regard to this matter. Mr. Bowers?

Mr. BOWERS. The lend or sell letters were at the request of the listing committee, in order that there be no likelihood of a corner developing in the stock; that is, a demand for the stock which the current supply might not fill, and the price be run up.

Mr. PECORA. That is, the floating supply was rather small?

Mr. BOWERS. Yes, sir. You see, it had been lodged—people who had wished to sell, Mr. Pecora, had sold during the difficulties of the company, and we were fearful that those who held stock would hold to it and there might be a demand and the stock would run up sharply and then be subject to sharp fluctuation downward, and therefore we agreed that we would always supply stock so that there would not be any corner.

Mr. PECORA. This joint account was undertaken by your firm and Lehman Bros. at the request of the stock exchange and as a condition to the granting of the listing application?

Mr. BOWERS. Yes, sir.

Mr. PECORA. Is there anything more?

Mr. BOWERS. One word more: That in connection with the 6 months' operations of that account the total purchases and the sales by the joint account in the class A stock were, I think, about 1,500

shares, both purchases and sales, and in the B stock a total of 2,000 shares at average prices of \$4 and \$5 a share and for a period of 6 months.

Mr. PECORA. That was a very inactive account.

Mr. BOWERS. In other words, it was, as per the stock exchange, simply kept orderly. Plenty of time there were other bids, Mr. Pecora, or other offers. They were perfectly close enough, and we had nothing to do with that.

Mr. PECORA. In other words, the purpose of this joint trading account as you understood it was to keep the market close on the stock?

Mr. BOWERS. Just reasonably so; yes, sir. So that a buyer would not be penalized by having to pay a higher price, or a seller would not be penalized by having to sell at too low a price.

The CHAIRMAN. What became of the whole transaction after you finished up?

Mr. BOWERS. Why, when we were through we had a balance of 900 shares that we had sold more than we had purchased in one class of stock, and 450 of that was supplied by Lehman Bros. and 450 by ourselves, and in the other class of stock, the class B stock, I think it was, the margin was 1,000 shares, and 500 were supplied by Lehman Bros. and 500 by ourselves. The accounts terminated, and the market then just took care of itself in an orderly fashion.

The CHAIRMAN. You finally got rid of your entire holdings?

Mr. BOWERS. Oh; no, sir. All that we sold, Senator, as a result of this operation over 6 months' time was 900 shares of one class of stock, that is Lehman Bros. and ourselves, and 1,000 shares of the other class of stock. The average prices of those two were about \$4 or \$5 a share in 6 months' time. In other words, there was very little activity, and it simply took care of itself.

The CHAIRMAN. We are much obliged to you and you are excused.

Mr. PECORA. I would just like to interrogate Mr. Altschul a little further.

**TESTIMONY OF FRANK ALTSCHUL, CHAIRMAN STOCK LIST COMMITTEE, NEW YORK STOCK EXCHANGE, NEW YORK CITY—Resumed**

Mr. PECORA. Mr. Altschul, you heard the testimony of the preceding witness, Mr. Bowers, with regard to the formation of this joint trading account in the stock of the Kelsey-Hayes Wheel Co.?

Mr. ALTSCHUL. I have, sir.

Mr. PECORA. And you heard him testify that that joint account was formed at the request of the stock list committee of the New York Stock Exchange?

Mr. ALTSCHUL. Yes, sir.

Mr. PECORA. And was virtually laid down as a condition to the granting of the application for the listing of the shares after the reorganization of this company that was made in February of last year?

Mr. ALTSCHUL. That is my understanding; yes, sir.

Mr. PECORA. Will you explain to the committee the policy of the stock list committee that prompted them to lay down that condition in this case?



Mr. ALTSCHUL. Mr. Pecora, I would like first to state that I was not at this meeting. I was away at the time. But as you told me this was coming out, I have informed myself as best I could with regard to the circumstances.

This was, as far as I know, my experience with the committee on stock list, a unique case. I don't think we could say that there was any policy covered by the particular transactions having to do with the joint account.

So far as the lend or sell letters are concerned, that is a matter of policy I would be glad to explain.

Mr. PECORA. Yes.

Mr. ALTSCHUL. The circumstances of this particular case bearing now on the joint account were these: The stock of the Kelsey-Hayes Wheel Co. was listed on the floor. The company had gotten into difficulties and was in the process of being reorganized.

In connection with the reorganization it was apparent from the figures before us that there was a very large concentration of holdings, because a very preponderating amount of the A stock went to the banking creditors—I have made a few notes on the reorganization—the banking creditors and to the holders of some mortgage bonds and some debentures.

About 220,000 shares, I think, out of about 290,000 in the course of the reorganization went to the security holders or creditors of those classes.

In connection with the B stock, out of 290,000 shares, 75,000 shares went to the old commo-stock holders, and they had rights to subscribe under the plan of reorganization for an additional amount of 149,000 shares, more or less, and in the event that 149,000 shares were not taken by the stockholders on their subscription, there would again have been in the hands of underwriters a very large concentration of holdings.

There were 4,500 stockholders in this situation, and while the distribution was obviously one that would not have gotten by the committee as eligible for listing in the first instance, when the stock was distributed to the stockholders of the listed company by virtue of a reorganization we are very reluctant to see them further penalized after they have been through a reorganization by losing the market for their stock. So we wanted, if possible, to put the new securities that came on out of the old in the list, in the interest of these 4,500 stockholders. The distribution situation gave him concern—and I have discussed this with my associate who handled it to find out just what was in his mind—apparently faced with that distribution situation, he decided that it would be wise to see that there was some orderly kind of a bid offer in there for the stock, so that the market should not be as exposed as it otherwise would have been.

Mr. PECORA. That is; exposed to a corner?

Mr. ALTSCHUL. No; not to a corner. This would be exposed to the fact that there were large concentrated blocks that might come into the market and there would be no place for a small stockholder to turn with his holdings. We wanted a regular, orderly market within a narrow range.

Just to digress for one moment, the minutes of the meeting contain a very full discussion of this question. I think you have them.

Mr. PECORA. I have a copy of them before me.

Mr. ALTSCHUL. And they indicate the reasoning just about I think as I have outlined it to you, the reasoning behind that action.

Now, with regard to the lend-or-sell letters, which I take it was part of your question——

Mr. PECORA. Yes.

Mr. ALTSCHUL. Before leaving the other question, may I say that this is the only case in my experience in which this action has been taken, so I do not think we could describe it under any question of a general policy, other than a sort of a general disposition to try and see that the stockholders were protected in this situation where there was anything that we could do to help them.

In other words, the lend or sell letters; that is a fairly usual precaution that we take. When the distribution sheets indicate to us that there is a very heavy concentration of holdings, but still not a concentration so heavy that it would act as a bar to the listing altogether, then we are in the habit of asking the large stockholders to give us these lend or sell letters which will allow us to call upon them to lend or sell the stock on the floor at our request in the event that a situation develops in the market to make that necessary. Those lend or sell letters we get very often. We have hundreds of them on file. They are all there merely as a protection against untoward developments, and in my recollection we have never had occasion to use them. I mean they are taken just as a precaution, but it is a precaution which we have never had occasion to use.

Mr. PECORA. Well, as a precaution against what?

Mr. ALTSCHUL. That is a precaution against an untoward development in the way of a corner in the stock.

The CHAIRMAN. Was this application granted?

Mr. ALTSCHUL. The application was granted, sir; yes.

Mr. PECORA. And one of the thoughts underlying this condition that was virtually imposed as a condition to the granting of the listing application was that there would be stock available to meet ordinary market requirements in a manner that would keep a close market on the stock?

Mr. ALTSCHUL. Yes; I think that is substantially correct. Well, I don't think there is anything—the discussion in the minutes, which I take it you are going to incorporate in the record, sir, will give all the circumstances in back of that. I think your statement is substantially correct. I would not take exception to it in any way.

Mr. PECORA. I have what purports to be a photostatic copy of the minutes of the meeting of the committee on stock list held on February 6, 1933, at which action was taken on this application to list the class A and class B shares of the Kelsey-Hayes Wheel Co. Will you identify that as being true and correct copy of such minutes?

Mr. ALTSCHUL. I so do, sir.

Mr. PECORA. I will offer that in evidence, but on account of its voluminous character I ask that it be not spread in full on the minutes.

The CHAIRMAN. Let it be admitted, under those conditions.

(Minutes of meeting of Feb. 6, 1933, of committee on stock list was designated "Committee Exhibit No. 82, Feb. 22, 1934", filed among the records of the committee, but not incorporated in this record in full.)

Mr. PECORA. This was virtually calling upon the sponsors of the stock to make stock available for permanent requirements if the necessity should arise?

Mr. ALTSCHUL. Calling upon the sponsors, and as we understand, the reorganization managers.

Mr. PECORA. I notice that there is no statement embodied in the listing application in the final form of it with regard to this condition for the creation of this joint trading account that has been referred to here. Is there any reason why that was not made public?

Mr. ALTSCHUL. I did not participate in the discussions, but if I had participated I would have urged that it not be made public, and I suppose the same reasons would have guided me that guided the committee.

Mr. PECORA. What was that?

Mr. ALTSCHUL. Because the matter was one of relative unimportance. It was merely a request to keep a normal, natural market in there during the time of the transition period from the old—I don't remember whether it was bankruptcy—but anyway, the old reorganized company and the new company, and to give publicity to the fact that two important banking firms were under agreement which provided for doing certain things might have had a connotation in the minds of the public that was quite unwarranted. It might have provided the incentive—it might have provided the basis for conclusion that would have had no justification. It would have given the transaction an importance that it did not have in our minds. I will put it differently: I think it would have had an importance in the minds of the public that it certainly did not have in ours, and I felt that it more dangerous to disclose—that it might be dangerous to disclose it, and there would be no harm in the arrangement as it was concluded without publicity.

Mr. PECORA. Except whatever activity the stock had in the market through the operation of this joint trading account would be misleading the public, in that the public would thereby be able to assume that this was public trading?

Mr. ALTSCHUL. We would never have assumed that this trading account, so-called, would have led to any added activity in the market that would not have taken place anyway. We would have assumed that such activity as originated on the part of a buyer or a seller would have found a counterpart that would have given a fair execution of his order.

The CHAIRMAN. That is all, Mr. Altschul. We will now take a recess until 10:30 tomorrow morning.

(Accordingly, at 4:32 p.m., an adjournment was taken until 10:30 a.m. on the following morning.)



COMMITTEE EXHIBIT 78-A—FEB. 22, 1934

HAMMONS & Co.,  
New York City, August 23, 1933.

LEE WARREN JAMES, Esq.,  
New York, New York.

DEAR SIR: In consideration of your purchasing 3,000 shares Consolidated Aircraft Corporation Common Stock at \$10.00 per share, we hereby grant you an option to purchase 14,000 shares of the above-mentioned stock as follows:

5,000 shares at \$10.00 per share  
4,000 shares at \$10.50 per share  
5,000 shares at \$11.00 per share

The above option is good for a period of thirty (30) days from the date of this letter or until the close of business Friday, September 22nd, 1933.

In consideration of your exercising the above option, we hereby grant you an additional option to purchase all or any part of 16,000 shares Consolidated Aircraft Corporation Common Stock as follows:

4,000 shares at \$11.50 per share  
4,000 shares at \$12.00 per share  
4,000 shares at \$12.50 per share  
4,000 shares at \$13.00 per share

good for a period of forty-five (45) days from the date of this letter, terminating at the close of business Saturday, October 7th, 1933.

If the above is in accordance with your understanding, please sign and return duplicate copy of this letter in the space provided below.

Yours very truly,

HAMMONS & Co., INCORPORATED,  
LESTER W. PELL JR., *Secretary*.

LWP:HMD

Accepted:

LEE WARREN JAMES

JUNE 26, 1933.

MR. WARREN JAMES, *Syndicate Manager*,  
New York City.

DEAR SIRS: The undersigned, Charles W. Sanford, of New York, confirms his agreement with you as follows:

In consideration of the sum of \$1.00 paid by you to the undersigned, receipt whereof is hereby acknowledged, the undersigned has granted to you and others associated with you, on certain terms, options to purchase from the undersigned, shares of the \$1.00 par value Common stock of Graham-Paige Motors Corporation, a Michigan corporation, as follows:

Up to—	Date	Price
17,500 shares..	On or before 3 o'clock p.m., D.S.T. July 26, 1933.....	At \$3.00 per share flat.
17,500 shares..	On or before 3 o'clock p.m., D.S.T., Aug. 26, 1933.....	At \$3.50 per share flat.
17,500 shares..	On or before 3 o'clock p.m., D.S.T., Sept. 26, 1933.....	At \$4.00 per share flat.
17,500 shares..	On or before 3 o'clock p.m., D.S.T., Oct. 26, 1933.....	At \$4.50 per share flat.

It is understood that the foregoing options, other than the first option, are respectively conditional upon the full exercise by you within the period specified of the preceding option.

You may exercise the options referred to above from time to time by giving, within the periods above mentioned, notice in writing of your election to purchase such shares to the undersigned at 1877 Broadway, New York City, and the undersigned will deliver or cause to be delivered to you certificates for the number of such shares which you shall so elect to purchase, at your office, No. 48 Wall Street, New York City, within \_\_\_\_\_ days following the day on which such notice is given, against payment therefor.

It is understood that the undersigned shall be entitled to receive any dividends which may be declared upon any of the shares covered by any of the above mentioned options, which shall be payable to holders of record thereof of a date prior to the purchase by you of said shares, and that you shall be entitled to receive all such dividends which shall be payable to holders of record thereof of a date on or subsequent to the date of purchase by you of such shares.

All the shares of such common stock above referred to are now issued and outstanding and all the shares of such common stock purchased by you hereunder are to be shares listed on the New York Stock Exchange. The certificates for all such shares are to be delivered to you in negotiable form for delivery on the New York Stock Exchange, and the undersigned agrees to pay all requisite stock transfer taxes payable in connection with the sale of any of such shares to you hereunder.

If the foregoing is in accordance with your understanding, will you please confirm your agreement herewith.

Yours very truly,

(Signed) CHARLES W. SANFORD.

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COMMITTEE EXHIBIT 78-C

SANDERSON & PORTER, ENGINEERS,  
52 William Street, New York, May 8, 1933.

Mr. MASON DAY,  
Redmond & Co., 48 Wall Street, New York, N.Y.

DEAR MR. DAY:—This will confirm our understanding of the option given to you on Voting Trust Certificates for Common Stock of the American Water Works & Electric Co., Inc., namely, all or part of 2,500 shares at 16, 2,500 shares at 17, 2,500 shares at 18, 2,500 shares at 19, good through the close of business June 8, 1933.

Yours very truly,

SANDERSON & PORTER.

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COMMITTEE EXHIBIT 78-D

SANDERSON & PORTER, ENGINEERS,  
52 William Street, New York, May 8, 1933.

Mr. MASON DAY,  
Redmond & Co., 48 Wall Street, New York, N.Y.

DEAR MR. DAY:—This will confirm our understanding of the option given to you on Voting Trust Certificates for Common Stock of American Water Works & Electric Co., Inc., namely, all or part of 2,500 shares at 14, 2,500 shares at 15, good through the close of business June 18, 1933.

Yours very truly,

SANDERSON & PORTER.

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COMMITTEE EXHIBIT 78-E

SANDERSON & PORTER,  
ENGINEERS,  
52 William Street, New York, May 16, 1933.

Mr. MASON DAY,  
Redmond & Company, 48 Wall Street, New York, N.Y.

DEAR MR. DAY:—

This will confirm our understanding of the option given to you on Voting Trust Certificates for Common Stock of American Water Works & Electric Company, Inc., namely, all or part of 1,500 shares at 20 (called), 1,500 shares at 21, good through the close of business June 15, 1933.

Yours very truly,

SANDERSON & PORTER.

## COMMITTEE EXHIBIT 78-F

LOUCKS & CULLEN,  
 ROOMS 1505-1510 EQUITABLE BUILDING,  
 120 Broadway, New York City, N.Y., April 20, 1933.

Mr. H. MASON DAY,  
*c/o Redmond & Co., 48 Wall Street, New York, N.Y.*  
*Re: Barnsdall Syndicate.*

MY DEAR MASON:—For your information, the syndicate has a call on Post & Flagg, dated March 9, 1933, good for sixty days, on

3,250 shares at  $4\frac{1}{2}$ ,  
 3,250 shares at  $3\frac{3}{4}$ ,  
 3,250 shares at 4.

If this is exercised, it has an additional call for an additional sixty days on

3,250 shares at  $4\frac{1}{4}$ ,  
 3,250 shares at  $4\frac{1}{2}$ ,  
 3,250 shares at  $4\frac{3}{4}$ . July 7, 1933.

If this is exercised, it has a call for an additional sixty days on

3,250 shares at 5, July 7, 1933.  
 3,250 shares at  $5\frac{1}{4}$ , July 7, 1933.  
 3,250 shares at  $5\frac{1}{2}$ .

If this is exercised, it has an additional call for an additional sixty days, on lots of 3,250 shares from  $5\frac{1}{4}$  up to  $8\frac{1}{4}$ , inclusive. The Barnsdall call is the same as to date and all other terms, except the units are 1,750 shares.

We have exercised today on the first call 1,500 shares from Post & Flagg and 1,000 shares from Barnsdall, at  $3\frac{1}{2}$ . The date you want to keep in kind is May 8th as the expiration date of the first call, and our drive, of course, must be to exercise the full 15,000 shares before that date, which makes the call operative for the next sixty days.

Very truly yours,  
 WDL:E.

WM. DEWEY LOUCKS.

## COMMITTEE EXHIBIT 78-G

REDMOND & Co.,  
 48 Wall Street, New York, August 19, 1931.

MESSRS. WRIGHT & SEXTON,  
 30 Broad Street, New York, N.Y.  
 Attention: Charles C. Wright, Esq.

DEAR SIRs: We confirm our understanding that we have given you an order (the execution of any part of which is optional with you) to sell for our account all or any part of fifty thousand (50,000) shares of Petroleum Corporation of American Capital Stock in amounts and prices as follows:

5,000 shares at \$8.75 per share	5,000 shares at \$10.00 per share
5,000 " " 9.00 " "	5,000 " " 10.25 " "
5,000 " " 9.25 " "	5,000 " " 10.50 " "
5,000 " " 9.50 " "	5,000 " " 10.75 " "
5,000 " " 9.75 " "	5,000 " " 11.00 " "

It is understood that the above prices are to be net to us and that this order is to expire at the close of business on Friday, August 28, 1931. Certificates for these shares will be delivered to you or your nominee upon one day's notice and upon payment of the aforesaid prices therefor at our office at #48 Wall Street, New York City.

It is further understood that upon the expiration of this order, as above noted, you will forward to us one half of any profits which you may realize through the sale of these shares and it is also understood that Redmond & Co. shall not be responsible for any loss which may occur through such sales.

This order is in addition to the order given to you under date of August 7, 1931.

Yours very truly,

REDMOND & Co.

Accepted:

WRIGHT & SEXTON.



## COMMITTEE EXHIBIT 78-H

SANDERSON & PORTER, ENGINEERS,  
52 William Street, New York, April 24, 1933.

Mr. MASON DAY,  
Redmond & Company,  
48 Wall Street, New York, N.Y.

DEAR MR. DAY: This will confirm our understanding of the option given to you on Voting Trust Certificates for Common Stock of American Water Works & Electric Company, Inc., namely, all or part of

3,000 shares at 12 called  
3,000 shares at 13 called  
3,000 shares at 14 called  
6,000 shares at 15 2700 called  
3,000 shares at 16  
3,000 shares at 17

good through the close of business May 24, 1933.

Yours very truly,

SANDERSON & PORTER.

## COMMITTEE EXHIBIT 78-I

BANCAMERICA-BLAIR CORPORATION,  
44 Wall Street, New York, October 9, 1931.

MESSRS. REDMOND & Co.,  
48 Wall Street, New York City.  
(Attention of Mr. Mason Day.)

DEAR SIR: We hereby offer to sell to you all or any part of 25,000 shares Julius Kayser & Co. Common Stock, in amounts and at prices as follows:

2,000 Shares at \$8.50 per share	2,000 Shares at \$10.50 per share
5,000 " " 9.00 " "	3,000 " " 11.00 " "
3,000 " " 9.50 " "	4,000 " " 11.50 " "
3,000 " " 10.00 " "	3,000 " " 12.00 " "

It is understood that the above prices are to be net to us.

This offer shall run for a period of ninety (90) days, or until the close of business on Tuesday, January 5, 1932, except that we shall have the right to cancel this offer at any time upon ten day's previous notice to you in writing.

It is also understood that, after deducting expenses, any amount received by you through the sale of any of these shares, in excess of the above net prices, shall be divided 25% to us and 75% to yourselves.

It is further understood that we shall be privileged to sell in the market any additional shares owned by us, but if we decide to sell such shares enblock, we will do so through you.

During the life of this offer, certificates for the above shares will be delivered to you or your nominee, upon one day's previous notice, and upon payment of the aforesaid prices therefor, at our Office, 44 Wall Street, New York City.

Kindly acknowledge and confirm that the foregoing is in accordance with your understanding by signing and returning to us copy of this letter enclosed herewith.

Yours very truly,

J. R. MONTGOMERY,  
Vice President.

## COMMITTEE EXHIBIT 78-J

HARRIS, SMALL & Co.,  
Detroit, Mich., July 31, 1931.

REDMOND & Co.,  
48 Wall St., New York City.

DEAR SIR: We, the undersigned, Harris, Small & Co., hereby represent that we either own or control not less than Twenty-five Thousand (25,000) Shares

of the Class B No Par Value Stock of Houdaille-Hershey Corporation, a Michigan Corporation.

In consideration of Five Dollars (\$5) and other valuable considerations, the receipt of which is hereby acknowledged by us, we hereby give Redmond & Co. of New York, N.Y., an option to purchase at any time on or before the first day of October, 1931, not to exceed Twenty-five Thousand (25,000) Shares of the Class B No Par Value Stock of Houdaille-Hershey Corporation, in the following amounts and at the following respective prices, namely:

6,250 Shares at Seven Dollars (\$7.00) per Share,  
 6,250 Shares at Eight Dollars (\$8.00) per Share,  
 6,250 Shares at Nine Dollars (\$9.00) per Share,  
 6,250 Shares at Ten Dollars (\$10.00) per Share.

The foregoing option may be exercised by you only in blocks of Six Thousand Two Hundred Fifty (6,250) Shares each, but may be so exercised in blocks of Six Thousand Two Hundred Fifty (6,250) Shares each at any time prior to October 1, 1931, as to all of said Twenty-five Thousand (25,000) Shares or part thereof, and the exercising of said option as to part shall in no way be construed as an election on your part to purchase the balance of said stock.

Very truly yours,

HARRIS, SMALL & CO.

MARCH 8, 1933.

#### BARNSDALL CORPORATION COMMON STOCK SYNDICATE AGREEMENT.

THIS AGREEMENT, made as of this 8th day of March, 1933, by and between WM. DEWEY LOUCKS, of New York City, N.Y., (hereinafter termed the Manager), and the undersigned, hereinafter separately termed the Participants) the Manager and the Participants together forming the Syndicate:—

WITNESSETH:—to wit:

The Participants hereby form a Syndicate and constitute the said Loucks Manager thereof, to trade in the Common stock of Barnsdall Corporation, upon the New York Stock Exchange, upon the understanding that the commitment of the Syndicate shall not at any one time exceed 25,000 shares for long or short account, except that the Syndicate may be short additional stock when covered by options. All transactions for account of the Syndicate shall be in accordance with and subject to the rules and regulations of the New York Stock Exchange. Subject only to the limitations aforesaid, the Manager in the trading account, upon books of account entitled "Barnsdall Corporation Syndicate Account", shall have full power and authority hereby granted, in his uncontrolled discretion and judgment, during the life and for account of the Syndicate, to buy, sell and generally trade in the said shares of stock, either long or short, and at either public or private sale, and to deliver and receive any puts and calls thereon.

The profits and losses of the Syndicate shall be divided among and borne by the Participants in the proportion which their respective participations, in dollars, bear to the total aggregate of the dollars of all of the Participants. The Participants shall be deemed to participate in each transaction in proportion to their several interests in the Syndicate. Any loss resulting from the failure of any Participant to carry out his obligation hereunder shall not be charged as a loss to the Syndicate, but in respect of any such loss incurred or threatened, resulting from such failure, the Manager shall have full power and authority hereby granted to take such action, by sale or otherwise, and with or without notice, as in the Manager's uncontrolled discretion is necessary to protect the Manager against loss.

The Syndicate will expire at the close of business on the first day of December, 1933, unless sooner terminated by the Manager, and may be extended at the discretion of the Manager for an additional period of four months, or any part thereof.

The Manager, from time to time, upon two days notice, may call and the Participants shall thereupon pay in cash, such amounts on account of the Syndicate liability, whether for purchase price, margin, or otherwise, as the

Manager may deem proper. The Manager shall receive no compensation for his services as Manager, but may, in his uncontrolled discretion, pay to such assistants as he has and deems proper so to pay, at the close of the Syndicate, not exceeding 10% of the Syndicate profits, if any, in kind, for the services of such assistants, or any assistant, provided that not more than 10% of the said net Syndicate profits shall be so paid, and the same shall only be paid upon the termination of the Syndicate. The Manager's determination in that regard shall be final and binding upon all Participants.

The Manager shall not be responsible, as such, unless the Manager shall be a Participant, and then only as a Participant, for any losses chargeable to the Participants in the event that the result of the Syndicate shall be a loss rather than a profit.

All expenses incidental to the operation of the Syndicate, including legal expenses, advertising, printing, postage, and all clearance charges, floor charges, and commissions payable by the Manager to brokers or otherwise, shall be a charge upon and be paid by the Syndicate.

The Manager agrees to arrange with Redmond & Co., members of the New York Stock Exchange, to carry the account of the Syndicate and to endeavor to arrange with such Stock Exchange house to carry the stock traded in upon a margin basis maintained at fifty per cent. (50%), but in the event of the Manager's inability to make such arrangements, there shall be no liability upon him therefor.

The Manager shall have full discretionary power and authority hereby granted to borrow money, or to cause the same to be borrowed, by any firm which is a member of the New York Stock Exchange and which firm shall then be carrying assets of the Syndicate against margin paid in by the Participants for account of the Syndicate, for any of the purposes covered by this agreement, and to pledge as security therefor any of the Syndicate assets in the general loans of such Stock Exchange firm, without regard to the Syndicate indebtedness of the Participants to the Manager; and also to pledge as security therefore this agreement and the several obligations of the Participants hereunder; except that where a Participant has taken up his proportion of the long stock and paid any other requirements of the Syndicate Manager under the Syndicate, and signified his intention of continuing to carry his proportionate share of the long stock, the participation of such Participant shall not be pledged.

The Manager may in his sole discretion release any participant for any cause and/or substitute another satisfactory to the Manager, provided that such substitute assumes the obligations of the released Participant. In case of any default upon the part of any Participant, his interest in the Syndicate, or any shares which he may be required to take up, may be sold at public or private sale, with or without notice, and the Manager or any Participant or Participants may be the purchaser or purchasers thereof, notwithstanding which, every such defaulting Participant shall be responsible to the full extent of his full liability therefor. The Manager may, in his sole discretion, make any such adjustment with any Participant as the Manager deems proper. No Participant shall in any manner be relieved of his obligations hereunder, by the default of any other Participant, nor shall his obligations be in any manner increased thereby.

Any Participant, with the consent of the Manager, may take up and carry his ratable share of Syndicate stock at the then cost thereof, provided such Participant shall agree with the Manager that the stock so taken up shall not be sold during the life of the Syndicate without the consent of the Manager in writing first obtained, and that the same shall be held during the life of the Syndicate, subject to the call of the Manager.

Upon the termination of the Syndicate, the Manager shall account to the Participants upon the assets remaining in the Syndicate account, distributing to the Participants against payment their respective proportions of any shares of stock then in the hands of the Manager, for account of the Syndicate, together with their respective proportions of any cash on hand, and in the event of a loss, a statement of their respective proportions thereof, which the Participants shall forthwith pay to the Manager.

Apportionment and distribution by the Manager of the profits, losses, and expenses shall be conclusive upon the Syndicate and upon the Participants, as shall also be the written statement of the Manager of the result of the



Syndicate operations. The Manager shall not be liable under any of the provisions of this agreement, or from any matter connected therewith, or for the exercise of his judgment and discretion in the management of the Syndicate, except for want of good faith. No Participant shall be liable under any circumstances in excess of the dollars the Participant has committed himself for by his signature to this agreement.

Nothing herein contained shall constitute the Participants partners with the Manager, or with one another, or render them liable for more than their proportionate shares, respectively, of the entire Syndicate liability. Nothing contained in this agreement shall be construed as creating any trust or obligation in favor of any person or corporation, other than the parties hereto, nor any obligation in their favor otherwise than as herein expressly provided.

This agreement shall extend to and bind the successors and personal representatives of the respective parties.

This agreement is entered into and is to be performed in the State of New York, and shall be construed in accordance with the laws of said State.

Any notice from the Manager to any Participant shall be deemed to have been duly given if mailed or telegraphed to such Participant at the address furnished to the Manager by such Participant.

In witness whereof, the Manager has accepted the responsibilities herein contained by his execution of this agreement, and the Participants have become parties hereto by the execution of this instrument and have affixed their respective addresses together with the amount of their dollar commitment, all as of the day and year first above written.

WM. DEWEY LOUCKS,  
*Syndicate Manager.*

	Dollar Commitment.
Utility Trading and Security Corp., by Wm. Dewey Loucks, 120 B'way	\$20,000
Louis C. Blendeman, 52 William St	40,000
Lee Warren James, 48 Wall St	20,000
Elley W. Mann, Chrysler Bldg	5,000
_____, 52 William St	5,000

#### COMMITTEE EXHIBIT 78-K

MARCH 7, 1932.

MESSRS. REDMOND & Co.,  
48 Wall Street, New York, N.Y.

GENTLEMEN: For a valuable consideration, I hereby grant you an option to purchase all or any part of thirty thousand (30,000) shares of the common stock of the Zonite Products Corporation, at the following prices:

10,000 shares @ \$9.00 per share,  
10,000 shares @ 10.00 per share,  
10,000 shares @ 11.00 per share.

Should the stock sell ex-dividend during the period of this option, or any extension thereto, you are not to receive the dividend on any stock not called by you as of the day the stock sells ex-dividend. The expiration date of this option is April 21, 1932.

It is further agreed that I will loan you, upon your request, for the period of this option, through a New York Stock Exchange firm, up to fifteen thousand (15,000) shares at the prevailing market price, so long as at least 15,000 shares remain uncalled under this option.

Your very truly,

Accepted:

ELLEY W. MANN.

REDMOND & Co.

By \_\_\_\_\_

REDMOND &amp; Co.,

NEW YORK, June 15, 1932.

48 Wall Street, New York, N.Y.

GENTLEMEN: For a valuable consideration, I hereby grant you an option to purchase all or any part of twenty thousand (20,000) shares of Zonite Products Corporation common stock at the following prices:

Exercised 8/9/32, 5,000 shares @ 5.

Exercised 8/11/32, 5,000 shares @ 5½.

2,500 exercised 8/15/32, 5,000 shares @ 6.

5,000 shares @ 6½.

The expiration date of this option is August 15, 1932.

I agree to allow you to exercise a put on five thousand (5,000) shares during the life of the agreement at five dollars (\$5.00) per share.

Yours very truly,

ELLERY W. MANN.

Accepted: \_\_\_\_\_

COMMITTEE EXHIBIT 78-L

NEW YORK, September 8, 1932.

REDMOND &amp; Co.,

48 Wall Street, New York City.

Gentlemen: This will confirm arrangements made with your Mr. Day, giving you an option for 60 days from this date, on 16,000 shares (16,000) of the common stock of the Warren Foundry & Pipe Corporation at the following prices:

1,000 shares @ \$13. per share,

3,000 shares @ 14. "

3,000 " @ 15. "

3,000 " @ 16. "

3,000 " @ 17. "

3,000 " @ 18. "

Harris, Upham & Co. will deliver to you the above number of shares at the prices stated, upon call.

It is understood and agreed that the option given you under date of September 1, 1932, is hereby cancelled, excepting as applied to such stock as had already been delivered and paid for.

Please confirm the above described option by signing and returning to us the attached duplicate of this letter.

Yours very truly,

J. LEONARD REPLOGLE.

COMMITTEE EXHIBIT 78-M

AUGUST 21, 1931.

MESSRS. REDMOND &amp; Co.,

48 Wall Street, New York, N.Y.

GENTLEMEN: On August 19, 1931, you gave us an order to sell fifty thousand (50,000) shares of the Capital Stock of the Petroleum Corporation of America at certain prices, which prices have been corrected by you under today's date. It is hereby agreed between us that you may, with our consent, give an order to Messrs. M. J. Meehan & Co. to sell all or any part of fifteen thousand (15,000) shares of the above mentioned stock, in amounts and prices as follows:

2,500 shares at 9¼

2,500 shares at 9½

2,500 shares at 9¾

5,000 shares at 10

2,500 shares at 10¼

Messrs. M. J. Meehan & Co. will agree to pay you forty percent (40%) of any profits which they make in connection with these sales, if any, and will agree that Redmond & Co. shall not be responsible for any loss which may occur through such sales.

It is understood that you will forward to us one-half of any profits you may receive from Messrs. M. J. Meehan & Co.'s sales.

Yours very truly,

WRIGHT &amp; SEXTON.

The undersigned, as Syndicate Manager, has organized a Syndicate of which you are part, to purchase under certain terms and conditions, a possible maximum of 92,057 voting trust certificates representing shares of capital stock of Molybdenum Corporation of America, a Corporation organized under the laws of the State of Delaware, which voting Trust Certificates have been listed on the Curb Exchange of New York. The number of voting Trust Certificates purchased contemporaneously herewith is 16,871, representing the aforesaid shares at the price of \$5. per share. The remainder of said voting Trust Certificates representing said shares are to be purchased under the following conditions and at the following times.

10,000 shs at  $5\frac{1}{8}$  as soon as any of said voting Trust Certificates are sold on the New York Curb Exchange at  $\$7\frac{1}{2}$  per share

10,000 shs at  $5\frac{1}{2}$  as soon as any of said voting Trust Certificates are sold on the New York Curb Exchange at  $\$7\frac{3}{4}$  per share

10,000 shs at  $5\frac{3}{4}$  as soon as any of said voting Trust Certificates are sold on the New York Curb Exchange at  $\$8\frac{1}{4}$

10,000 shs at  $6\frac{1}{4}$  as soon as any of said voting Trust Certificates are sold on the New York Curb Exchange at  $\$8\frac{3}{4}$

11,681 shs at  $6\frac{1}{2}$  as soon as any of said voting Trust Certificates are sold on the New York Curb Exchange at  $\$9\frac{1}{4}$

12,000 shs at 7 as soon as any of said voting Trust Certificates are sold on the New York Curb Exchange at  $9\frac{1}{4}$

11,505 shs at  $7\frac{1}{4}$  As soon as any of said voting Trust Certificates are sold on the New York Curb Exchange at  $10\frac{1}{2}$

The agreement to purchase said voting Trust Certificates shall cease at the expiration of 60 days from and after July 26, 1933. The undersigned confirms your interest in this Syndicate to the extent of 3%, and it is understood that to the extent to which the undersigned at his absolute discretion shall make such purchases, same shall be proportionately confirmed and that you will promptly make payment on call for the shares so purchased by you. It is understood that any and all stock purchased pursuant to said agreement will be left with Redmond & Co. for sale at the direction and discretion of the undersigned. The undersigned shall incur no liability for any action taken hereunder in good faith.

If the foregoing is in accordance with your understanding, will you please confirm your agreement herewith, by signing and returning the enclosed duplicate of this letter, and also your check for \$2,530.65 being your proportionate amount of the cost of the initial purchase.

LEE WARREN JAMES.

#### COMMITTEE EXHIBIT 78-N

Detroit, Mich., July 3, 1931.

Messrs. REDMOND & Co.,  
48 Wall Street, New York, N.Y.

GENTLEMEN: This letter will confirm the fact that on June 26, 1931, we formed a joint account to trade in the capital stock of Guardian Detroit Union Group, Inc., a Michigan corporation.

The interests and liabilities in this account are as follows:

Messrs. Harris, Small & Co., 1400 Penobscot Building, Detroit, Michigan	25%
Messrs. William C. Roney & Co., 2232 Union Guardian Building, Detroit, Michigan	25%
Messrs. Edward B. Smith & Co., 15 Broad Street, New York, New York	25%
Messrs. Redmond & Co., 48 Wall Street, New York, New York	25%

All losses which may accrue to this account will be shared in proportion to the respective interests as outlined above, and all profits shared in like proportion.

Unless approved in writing by all parties to this agreement, it is expressly understood that this account shall not be long at any time more than 2,000 shares of Guardian Detroit Union Group, Inc., capital stock. The maximum short position which this account may assume at any one time is 10,000 shares of the same stock.

The manager of this account shall be Messrs. Harris, Small & Co., who will act without compensation and without liability for the conduct of the account



except for lack of good faith. The manager shall have the right to appoint agents in connection with this operation without liability other than for the exercise of ordinary care in the appointment. The manager shall be reimbursed for commissions, taxes, counsel fees and other expenses in the discretion of the manager deemed necessary.

The members, by accepting an interest in this account, agree promptly to meet, to the extent of their respective proportions, all calls of the manager for capital and expenses incident to the trading operations. The manager will also have the right to call upon members to carry, for the benefit of this account, their proportionate share of stock which the account may be long at any time, which stock will be subject to recall by the manager. Any notice or call by the manager may be sent by mail or telegraph to the last known address of the member.

The records of this account will be kept in the offices of the manager.

The manager will have the right to borrow money for the benefit of the account and may hypothecate such assets as the account may hold as security for such loan or loans as they may negotiate from time to time for the account's benefit.

We represent that we hold an option from Messrs. Keane, Higbie & Co. to purchase 17,500 shares of the capital stock of Guardian Detroit Union Group, Inc., in various amounts and prices ranging from \$40 to \$55 a share. A copy of this option is attached hereto.

In consideration of \$5, and other valuable considerations, paid to us by the other parties to this agreement, we hereby assign the said option to this account.

Nothing in this letter is to be construed to mean that the manager of this account is a partner of the other members or that the members are partners of each other.

Unless soon dissolved by mutual consent, this account will extend for the life of the option referred to above.

It is agreed that any member of this account may withdraw upon ten days' notice to the manager, without liability, except for the satisfaction of all obligations of said withdrawing member under the terms of this agreement, to the date of withdrawal.

Upon failure of any member of this account to perform any of his undertakings, the manager shall have the right to exclude such member from further interest and participation in this account and to hold such member liable for damages caused by such failure.

Anything in this agreement to the contrary notwithstanding, the obligations in this agreement are several and not joint.

No member of this account may sell, assign, transfer or pledge any interest either in the assets of the account or its right as a member without written consent of the manager.

Kindly indicate your approval of the terms of this agreement, as of June 26, 1931, by signing and returning to us the enclosed duplicate copy.

This agreement may be executed in one or more counterparts and each shall constitute an original.

Yours very truly,

Accepted:  
REDMOND Co.

HARRIS SMALL.  
W. E. LOREY Co.

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COMMITTEE EXHIBIT 78-O

REDMOND & Co.

New York-Philadelphia

Cables "Mimosa" New York

48 WALL STREET, NEW YORK, July 21, 1930.

W. J. BUESCHER, Esq.,  
c/o Transamerica Corporation,  
44 Wall Street, New York City.

DEAR SIR: This letter will confirm the fact that we have this day formed an undivided joint account between ourselves to trade in the common stock of

Warren Foundry & Pipe Corporation as the same is now constituted. The interests and liabilities in the account are as follows:

Redmond & Co.	40%
Ned D. Biddison	40%
P. W. Thirtle	10%
W. J. Buescher	10%

Any net losses arising from the operation of this account will be shared by the members in proportion to their respective interests as above and any net profits which may accrue to the account will be distributed as follows:

Redmond & Co.	46%
Ned D. Biddison	36%
P. W. Thirtle	9%
W. J. Buescher	9%

The division of profits, as outlined above in favor of Redmond & Co., is compensation for valuable options confirmed below to the account and for the services of Redmond & Co. as Managers of the account, in which capacity they will serve with full discretionary power and without responsibility except for lack of good faith.

This letter also confirms that Redmond & Co. grants an option to this account on all or any part of 10,000 shares of Warren Foundry & Pipe Corporation common stock until the close of business September 15, 1930, at the following prices:

1,000 shs. @ \$32 p.s.	1,000 shs. @ \$37 p.s.
1,000 shs. @ \$33 p.s.	1,000 shs. @ \$38 p.s.
1,000 shs. @ \$34 p.s.	1,000 shs. @ \$39 p.s.
1,000 shs. @ \$35 p.s.	1,000 shs. @ \$40 p.s.
1,000 shs. @ \$36 p.s.	1,000 shs. @ \$41 p.s.

Unless otherwise agreed in writing, this account will at no time have a long commitment in the common stock of Warren Foundry & Pipe Corporation and will at no time have a short commitment for a greater amount of stock than that which may be called for by the option from time to time.

No member of this trading account shall be entitled, as of right, to receive any assets which at any time may be held by it. Apportionment and distribution by the Managers of the profits, losses, and expenses, and the written statement of the Managers with respect to same shall be conclusive upon the participants.

The account will extend from this day until the close of business September 15, 1930, unless sooner dissolved by the Managers and may be extended for a further period or periods by mutual consent.

Nothing in this letter is to be construed to mean that the Managers of this account are partners with the participants or that the participants are partners with each other.

Kindly acknowledge the acceptance of your interest in this trading account by signing and returning to us the enclosed duplicate copy of this letter.

Very truly yours,

BRG:T

Approved:

W. J. BUNCHEE.

#### COMMITTEE EXHIBIT 78-P

THE HARTMAN CORPORATION,  
WABASH AVENUE AND ADAMS STREET,  
Chicago, Feb. 19, 1931.

REDMOND & Co.,  
48 Wall St., New York City.  
(Attention Mr. Charles Reed.)

GENTLEMEN: For and in consideration of One Dollar (\$1.00), receipt of which is hereby acknowledged, I hereby grant to Redmond & Co. an option on the "B" stock of The Hartman Corporation, as follows:

5,000 shares at \$5.00 per share	2,500 shares at \$7.50 per share
2,500 " " 5.50 " "	2,500 " " 8.00 " "
2,500 " " 6.00 " "	2,500 " " 8.50 " "
2,500 " " 6.50 " "	2,500 " " 9.00 " "
2,500 " " 7.00 " "	

Totalling 25,000 shares.

This option shall be good for thirty days from February 19, 1931.

I shall only have the right to cancel any uncalled amount of stock providing the matter I spoke to you about shall become definite during this period.

Stock shall be called for in units of not less than one thousand (1,000) shares. You shall pay for such "called" stock in cash at any place that I may designate.

In consideration for the granting of this option, the said Redmond & Company agree to pay me upon the expiration of this option thirty-three and one-third per cent ( $33\frac{1}{3}\%$ ) of the net profits that shall accrue as a result of this option. It is agreed that I, or my representative, shall have the right during the life of the option or upon the settlement of the final profits, to inspect this account.

Very truly yours

MARTIN L. STRAUS.

Accepted:

REDMOND & COMPANY.

MARCH 31, 1931.

48 Wall Street, New York City.

GENTLEMEN: I hereby grant you an option on fifteen thousand (15,000) shares of the "B" stock of the Hartman Corporation at five dollars per share, for fifteen days.

In consideration of the granting of this option, I shall receive  $33\frac{1}{3}\%$  of the profits in this account, with no liability.

Very truly yours,

MARTIN L. STRAUS.

JULY 15, 1930.

REDMOND & COMPANY,

48 Wall Street, New York City.

GENTLEMEN: For and in consideration of One Dollar, (\$1.00), receipt of which is hereby acknowledged, I hereby grant to Redmond & Company, an option on the common stock of the Hartman Corporation, as follows:

5,000 shares at \$13. per share
5,000 " 14. "
5,000 " 15. "
5,000 " 16. "
5,000 " 17. "

This option shall be good for thirty days from July 15th, and shall cancel all previous options granted by me.

Very truly yours,

MARTIN L. STRAUS.

Accepted.

COMMITTEE EXHIBIT 78-Q

NEW YORK, N.Y., March 4, 1929.

Messrs. HALLGARTEN & Co.,

44 Pine Street, New York, N.Y.

DEAR SIRs: Referring to the proposed Agreement to bear even date herewith between Morris Plan Shares Corporation, as party of the first part, and you and the undersigned Redmond & Co., Manufacturers Trust Company and Bertles, Rawls & Donaldson, Inc., as parties of the second part, we hereby confirm the understanding heretofore existing between you and ourselves that in consideration of the execution by you simultaneously herewith of said Agree-



ment, we hereby agree with you jointly and severally that said Agreement when executed by you and said Redmond & Co., Manufacturers Trust Company and Bertles, Rawls & Donaldson, Inc. shall be made for the joint account of your firm and all of the undersigned, respectively, in the following proportions:

Hallgarten & Co.	25%
Redmond & Co.	25%
Manufacturers Trust Company	25%
Bertles, Rawls & Donaldson, Inc.	25%

and the rights and benefits accruing from said Agreement when executed and the obligations and liabilities resulting therefrom shall be borne by you and us in like proportion. Morris Plan Shares Corporation shall have an interest of not more than 12½%, subject to proportionate reduction, in the event that the number of Units taken down by it from those purchased by the Bankers under said Agreement does not equal that percentage, and the other parties hereto hereby cede such interest to said corporation. Any reduction in the participation of Morris Plan Shares Corporation shall be distributed among the other participants in proportion to their respective interests.

You are hereby authorized by us to act on behalf of the Bankers therein in all respects, to exercise any and all options granted thereby or contained in any agreement executed pursuant thereto, and to sign on behalf of yourselves and the undersigned as Syndicate Managers separate Syndicate and/or Selling Group agreements for the purchase and/or sale of so many of the Units or warrants to be purchased or delivered to the Bankers under said Agreement and on such terms, at such prices and in such form as you in your sole discretion may determine and to become members of and/or act as Managers of such Syndicate Managers and/or Selling Group Managers; to keep the Syndicate and/or Selling Group books for such Syndicates; to manage any trading account in which you and we participate for the purpose of dealing in part in the securities covered by said Agreement, and to sign all documents or letters in connection with the Syndicates or Selling Groups on behalf of the Syndicate and Selling Group Managers. You are hereby authorized to publish, in your discretion, circulars and advertisements on behalf of the undersigned and on behalf of any such Syndicate and/or Selling Group, in such form and signed by such names as you may determine.

Kindly confirm your acceptance of the foregoing by placing your signature under the word "Accepted" at the foot of this letter and the same will thereupon constitute a binding agreement between you and ourselves.

Yours very truly,

REDMOND & Co.,

By \_\_\_\_\_,

MANUFACTURERS TRUST COMPANY,

By \_\_\_\_\_, *Vice President.*

BERTLES, RAWLS & DONALDSON, INC.,

By \_\_\_\_\_, *Treas.*

MORRIS PLAN SHARES CORPORATION,

By ARTHUR J. MORRIS, *Pt.*

Accepted:

HALLGARTEN & Co.,

By \_\_\_\_\_.

#### COMMITTEE EXHIBIT 78-R

AGREEMENT, made this 27th day of June, 1929, by and between JOHN BURNHAM & COMPANY, INC., of Chicago, Illinois, party of the first part, and the other subscribers hereto, parties of the second part.

WHEREAS, the party of the first part and the second part desire to form a Syndicate for the purpose of purchasing and selling the shares of Common Stock (hereinafter called the "shares"), of ZENITH RADIO CORPORATION, (hereinafter called the "Company") (the said parties of the first part and the second part being hereinafter called severally the "Participants" and collectively the "Syndicate"), and the party of the first part relying upon the covenants and agreements of the participants as hereinafter set forth, is ready and willing to undertake to form a Syndicate for the purpose herein mentioned.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements hereof, the Participants severally agree with each other as follows:

FIRST: The Participants hereby constitute JOHN BURNHAM & COMPANY, INC. the Syndicate Managers (hereinafter called the "Managers") under this agreement.

SECOND: Each Participant, by this signature hereto, is bound for the amount of his participation in the Syndicate as set opposite his signature affixed hereto and agrees to comply with all directions of the Managers in regard to Syndicate matters and to make all payments to the Managers as and when called by the Managers. Calls by the Managers upon Participants to make payment of their participation will be made ratably in the discretion of the Managers, in full or from time to time in part. All payments shall be made in cash at the office designated by the Managers and within five days after each call by the Managers.

THIRD: Participants shall share ratably in the profits and losses upon Syndicate transactions, but nothing herein contained shall constitute the parties hereto partners or shall render any one of the Participants liable to contribute more than the amount of his participation as set opposite his name hereto affixed.

FOURTH: The Managers are hereby specifically authorized by the Participants as follows:

(a) To purchase the shares in such amounts and at such times as in their discretion they shall deem advisable, and also to purchase from themselves in their individual capacity and from other Participants, and to purchase from others, in the open market or at private sale or otherwise—shares in such amounts and at such prices, in their discretion, as they may deem advisable, and for all of the above mentioned purposes to apply the moneys paid by the Participants and moneys received from the sale of shares or otherwise hereunder, provided, however, that at no time shall the total liability of the Syndicate, either for long or short account, exceed the total number of shares subscribed for by the Syndicate.

(b) To receive the shares so purchased for the benefit of the Syndicate.

(c) To buy, sell, purchase, repurchase and trade in the shares as they may deem advantageous for the Syndicate, in their sole judgment and discretion, with the right and privilege in their discretion to deal in puts and calls of the shares if the same should seem advisable, and to utilize for the purpose of buying or trading in any such shares any funds of the Syndicate, whether derived from participation hereunder, or from the proceeds of the sale of shares acquired by the Syndicate, or otherwise, provided only that the participation or obligation of each Participant hereunder shall not be thereby increased beyond the amount of his participation as stated herein.

(d) From time to time to borrow money on behalf of the Syndicate and for the purposes thereof, and to pledge or hypothecate all shares in their possession or under their control, and also this Agreement and the obligations of the participants hereunder, as collateral security for all sums so borrowed, or to agree to pledge or hypothecate the same, as the Managers may deem wise, provided always that the respective liabilities of the Participants shall not in any event be increased above the full amount of their respective participation.

(e) During the life of this Syndicate and up to and including the final distribution hereunder, the Managers, on behalf of the Syndicate, may make any and all arrangements and may perform any and all acts not especially mentioned herein that, in the exercise of their unrestricted discretion, they shall deem to be expedient in order to consummate the performance of this agreement or to promote or protect the interests of the Syndicate.

FIFTH: The title to all of the shares acquired by the Managers for and on behalf of the Participants, as in this agreement provided, shall vest in the Managers and the same shall be held by them for the joint account of the Participants until the termination of this Agreement; and while the same shall remain in their possession, the Managers shall collect all dividends declared and paid on such stock for the joint account of the Participants and shall have full power and authority to vote the said shares of stock as fully and with the same effect as the Participants might or could do were they the absolute owners



thereof. Any and all moneys received by the Managers hereunder may be held by them as Bankers in general account.

SIXTH: The Syndicate will expire on Sept. 27, 1929, but may be extended by the Syndicate Managers, without notice, for an additional period or periods not exceeding ninety (90) days in the aggregate. The Syndicate Managers reserve the right, however, to terminate the Syndicate at any time.

SEVENTH: The Managers may incur such expenses and obligations in the performance of this agreement as the Syndicate Managers may deem necessary or proper, including advertising expenses, counsel fees, and commissions and brokerage on the purchase and sale of shares either at public or private sale or purchase, and the Syndicate Managers are specifically authorized to pay to themselves any such brokerage or commission upon the purchase or sale of shares made by them hereunder, and all expenses and disbursements paid or incurred by the Managers in connection with the Syndicate shall be charged to the Syndicate hereunder.

EIGHTH: The Participants shall share the Syndicate profits and losses pro rata, and upon the termination or expiration of the Syndicate the Managers shall distribute to the Participants pro rata all shares and/or cash remaining in the Syndicate account after deduction of all charges and expenses incurred hereunder. The apportionment and distribution by the Managers of the profits, expenses and losses of the Syndicate shall be binding and conclusive upon the Participants, and upon such distribution the Managers shall be discharged from all liability hereunder. The Managers, upon request, shall render to the Participants a full statement of the apportionment and distribution of profits and expenses of the Syndicate.

NINTH: The Managers shall be Participants hereunder on the same terms as other Participants and shall have full power to sell to the Syndicate shares owned by them or associates, to the same extent as if they were neither Managers of or Participants in this Agreement, at such price or prices as in their absolute discretion they may determine. The Managers shall not be liable here under except for the failure to exercise good faith in carrying out the obligations hereby imposed. In case any Participant shall fail to perform any of his undertakings, other Participants may be received to take the place of the Participant so failing to perform his undertaking upon the written consent of the Managers. Upon the failure of any of the Participants to perform any of his undertakings hereunder, the Managers shall have the right, at their option, and in their discretion, to preclude a participant from all existing and all further interest and participation in the Syndicate, and thereupon all interest and right of such defaulting Participant shall cease and determine, and inasmuch as the successful carrying out of this agreement depends upon full and complete performance by each and every Participant, and inasmuch as the damages resulting from any Participant's failure to perform would be of an uncertain nature and incapable of exact ascertainment, the Managers shall have the right, in their discretion, either to forfeit as liquidated damages any payments such Participant may have theretofore made hereunder and such Participant does hereby transfer and assign to the Syndicate Managers such sum or sums as said Participant shall have theretofore paid, the acceptance thereof by the Syndicate Managers to be full settlement and discharge of any liability of the Participant to the Syndicate and of the Syndicate to the Participant; or said Managers may hold such Participant liable for the balance of his subscription and recover from such Participant all damages caused to the Syndicate by the failure of such Participant to perform. The death or default of any Participant shall not dissolve the Syndicate.

TENTH: No Participant shall have the right to transfer his participation or any part thereof or any interest therein, either directly or indirectly, without the written consent of the Managers. No Participant may withdraw and receive his pro rata share of the shares at any time during the life of the Syndicate except with the written consent of the Managers and upon such terms as they may determine.

ELEVENTH. Each Participant shall furnish to the Managers his address, to which notices, calls or other communications may be sent, and any notice, call or other communication mailed to the Participant at such address shall be deemed to have been received by him.



**TWELFTH:** This Agreement may be executed in counterpart and shall bind and benefit the several parties and their respective executors, administrators, successors and assigns.

**IN WITNESS WHEREOF,** the parties hereto have hereunto affixed their hands and seals as of the date above first written.

JOHN BURNHAM & Co.,  
Syndicate Managers.

### PARTICIPANTS

NAME	ADDRESS	SHARES
Paul B. Klugh, 3620 Iron St., Chicago-----		9, 700
Seneca Securities Corporation, by E. H. McDonald, Jr., Pres., 120 S. La Salle St., Chicago-----		19, 400
Irving Hewitt, 120 S. La Salle St., Chicago, Illinois-----		900
John Burnham & Co., 120 So. La Salle St-----		10, 000
Redmond & Co., 48 Wall St., N.Y. City-----		7, 000
Additional (Redmond & Co.)-----		3, 000

**AGREEMENT** made this 30th day of April, 1930 between Redmond & Company, a co-partnership, Stroud & Company, Incorporated, a Delaware Corporation, and Chandler & Co. Inc., a New York Corporation, witnesseth

1. The parties hereto agree to form a joint account in which each party shall have a one-third interest for the purpose of distributing and selling Class "B" Common Stock of The United States Dairy Products Corporation.

2. For the purpose of providing stock for such joint account, Chandler & Co. Inc. agrees to assign or cause to be assigned to the parties hereto, an option to purchase all or any part of 60,000 shares of such Class "B" Common Stock at \$20.00 a share which said option extends until June 1, 1930. Chandler & Co. Inc. further agrees to assign or cause to be assigned to the parties hereto a further option to purchase all or any part of 40,000 additional shares of such stock at \$22.50 per share which option extends until December 31, 1930 to be effective only provided the option on all of the 60,000 shares hereinbefore mentioned has been exercised. The foregoing assignments shall be subject to the following terms:

(a) Chandler & Co. Inc. shall have the right on or before May 20, 1930 to exercise the foregoing option on its own behalf or to enter into a binding agreement to exercise such option on its own behalf on or before June 1, 1930 with respect to the 15,000 shares out of the hereinbefore mentioned option for 60,000 shares for the purpose of covering its present short position in such shares. Chandler & Co. Inc. shall be required to exercise the option on the aforesaid 15,000 shares provided the parties hereto shall notify Chandler & Co. Inc. that they desire to borrow such 15,000 shares for the purpose of making deliveries against short sales made for the joint account.

(b) Chandler & Co. Inc. shall have the right in case on or before May 20, 1930 the option for the entire 60,000 shares is not exercised or a binding agreement entered into by the parties hereto to exercise such option on or before June 1, 1930, to exercise the option for its own account with respect to any portion of such shares the option for which has not been exercised or agreed to be exercised for the joint account as aforesaid. In the event that the additional option for 40,000 shares becomes effective, Chandler & Co. Inc. shall have the right in case, on or before December 15, 1930, the option for the entire 40,000 shares is not exercised or a binding agreement entered into by the parties hereto, to exercise such option on or before December 31, 1930 to exercise the option for its own account with respect to any portion of such shares the option for which has not been exercised or agreed to be exercised as aforesaid.

(c) Chandler & Co. Inc. shall be entitled to a commission of \$1.00 per share on any or all of said shares the option for which is exercised by the parties hereto for the joint account provided, however, said sum of \$1.00 per share shall not apply to the 15,000 shares or any part thereof the option for which may be exercised or agreed to be exercised by Chandler & Co. Inc. as aforesaid.

3. Chandler & Co. Inc. will endeavor to obtain an option or options for the benefit of the parties hereto to purchase 28,000 additional shares of said stock at \$21.50 per share said option or options to extend until December 31, 1930. In order to enable Chandler & Co. Inc. to cover their short position at April 25,

1930, over and above the 15,000 shares above referred to, as well as their short position in joint account with Stroud & Company, Incorporated, Chandler & Co. Inc. shall have the first right to take up to but not exceeding 7,283 shares of said stock for the purpose of covering such shortage.

4. Chandler & Co. Inc. agrees to procure letters from the owners of at least 105,000 shares of said stock agreeing not to sell the same before December 31, 1930 without the consent of the parties hereto.

5. Chandler & Co. Inc. agrees that it will loan or cause to be loaned to the joint account, if required, up to an aggregate amount of 35,000 shares of said stock of which 20,000 shares will be provided by Stroud & Company, Incorporated and 15,000 shares by Chandler & Co. Inc. The price at which said stock shall be loaned shall not exceed the option price for said stock at that time in effect and no demand shall be made for the return of said stock so loaned prior to the expiration date of the options then in effect. It is agreed that the joint account shall never be short of a greater number of shares of said stock than can be borrowed from Chandler & Co. Inc. or Stroud & Company, Incorporated unless additional stock can be borrowed from others through Chandler & Co. Inc. on terms similar to those above set forth. Stock borrowed from others, however, subsequent to June 1, 1930 shall not be required to be loaned for the entire period until the expiration of the option, but may be loaned for a period not less than 60 days and notice requiring the return of such stock shall be given 10 days before delivery is required.

All stock so borrowed shall be returned by the joint account either through their purchases in the open market or through the exercise of the above mentioned options. The moneys paid by the joint account against a loan of this stock shall be non-interest bearing.

6. All books and accounts with reference to said joint account shall be kept by Chandler & Co. Inc. No purchasing of shares of such stock for the joint account shall be made on the open market or otherwise except with the consent of the parties hereto and then only to cover in whole or in part any short position of the joint account. Such purchases when made shall be handled by Chandler & Co. Inc. as Syndicate Managers hereunder.

7. In order to assist in establishing a short position in the market and thereby to aid in the distribution of such stock, Chandler & Co. Inc. agree that until a short position of 5,000 shares has been established by the joint account, the parties hereto for the joint account shall have the right to put to Chandler & Co. Inc. up to but not exceeding 5,000 shares of such stock at a price not in excess of \$24.00 per share.

8. The parties hereto agree to use their best efforts to place and distribute such shares.

9. Chandler & Co. Inc. agrees to arrange, by the establishment of a Committee or otherwise, that the parties hereto shall be kept fully informed with respect to the operations and business of the United States Dairy Products Corporation.

10. All wholesaling shall be for the joint account. The concession allowed to dealers shall be mutually agreed upon by the members of the joint account from time to time. The retail price on any day shall be governed by the closing sale price in the market of the previous day.

11. The joint account shall be charged only with the out-of-pocket expenses of the parties hereto incurred for the joint account including advertising, printing, etc. and Chandler & Co. Inc. shall make no charge for their services as Syndicate Managers or in keeping the records of the joint account.

12. Any net profits of the joint account after paying all expenses as above mentioned and the \$1.00 per share to Chandler & Co. Inc. as provided in Paragraph 2 (c), hereof, shall be divided upon the termination of the joint account equally between the parties hereto unless an earlier distribution in whole or in part shall be mutually agreed upon.

13. The joint account may be terminated by any one of the parties hereto upon 10 days written notice to the other parties. Upon such termination a full accounting shall be made but no valuation shall be given to any portion of the shares remaining in the option over and above that necessary to cover the short position of the joint account. The party giving notice of termination shall have no further interest in such option, but the same shall belong to the other parties hereof. Unless terminated as aforesaid, this agreement shall extend to and terminate on December 31, 1930.

14. At the request of the parties hereto, Chandler & Co. Inc. will cause the United States Dairy Products Corporation to make application to list said "B" shares of its stock upon the New York Stock Exchange.

15. Chandler & Co. Inc. agrees to procure letters from the owners of at least 27,000 Stock Purchase Warrants, Series of 1934, to the effect that they agree not to sell stock if such Warrants are exercised on or before December 31, 1930 without the consent of the parties hereto.

STROUD & COMPANY, INCORPORATED.  
HOMER REED, JR., *Vice President.*

Witness:

\_\_\_\_\_.

CHANDLER & Co.,  
*Syndicate Managers.*  
J. R. DUNLAP, JR., V.P.

Witness:

REINE E. AJAS.

REDMOND & Co.  
REDMOND & COMPANY,  
By H. O. OSBORN, JR.,  
*General Partner.*

Witness:

\_\_\_\_\_.





# STOCK EXCHANGE PRACTICES

FRIDAY, FEBRUARY 23, 1934

UNITED STATES SENATE,  
COMMITTEE ON BANKING AND CURRENCY,  
*Washington, D.C.*

The committee met at 10:30 a.m., pursuant to adjournment on yesterday, in room 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams, Townsend, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee; Robert Jones, attorney for Cities Service Co.; G. T. Stanford, attorney for Sinclair Consolidated Oil Corporation; and Roland L. Redmond, attorney for New York Stock Exchange.

The CHAIRMAN. The committee will please come to order. Who will you have first this morning, Mr. Pecora?

Mr. PECORA. Mr. Johnston.

The CHAIRMAN. Please come forward, hold up your right hand, and be sworn:

You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. JOHNSTON. I do.

The CHAIRMAN. Just take a seat there at the committee table opposite the microphone.

## TESTIMONY OF ERNEST H. JOHNSTON, WESTFIELD, N.J., VICE PRESIDENT CITIES SERVICE CO., NEW YORK CITY

The CHAIRMAN. Mr. Johnston, please give your name, residence, and occupation.

Mr. JOHNSTON. Ernest H. Johnston.

Mr. PECORA. Do you spell your last name J-o-h-n-s-t-o-n?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Go ahead and finish your answer.

Mr. JOHNSTON. 157 Lincoln Road, Westfield, N.J.

Mr. PECORA. What is your business or occupation?

Mr. JOHNSTON. Vice president of the Cities Service Co.

Mr. PECORA. How long have you been connected with the Cities Service Co. in that capacity?

Mr. JOHNSTON. For about 15 years.

Mr. PECORA. Are you also a director of that company?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. What is the general nature of the business conducted by that corporation?

Mr. JOHNSTON. It is a holding company for public utilities, oil, and natural gas corporations.

Mr. PECORA. Where is the office or principal place of business of the company?

Mr. JOHNSTON. No. 60 Wall Street.

Mr. PECORA. In the city of New York?

Mr. JOHNSTON. In the city of New York; yes, sir.

Mr. PECORA. Now, Mr. Johnston, in recent years has it been the practice or custom for your company to issue monthly letters addressed to the executive committee?

Mr. JOHNSTON. Not since 1929.

Mr. PECORA. Well, did it do so in 1929 and prior thereto?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Who was the author of the monthly letters that we have in mind during the year 1928?

Mr. JOHNSTON. Charles H. E. Scheer.

Mr. PECORA. Is he employed by the company?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. In what capacity?

Mr. JOHNSTON. He has been with us since 1914. He started in as cadet engineer in Denver, and has been developed by the company along engineering and other lines. He has shown an aptitude in regard to economics, and has been employed in that capacity in recent years.

Mr. PECORA. I show you what purports to be an excerpt from one of the monthly letters, so-called, on economic conditions, addressed to the executive committee of Henry L. Doherty & Co., for the month of December 1928. Will you be good enough to look at it and tell me if you recognize it to be an excerpt from such monthly letter?

Mr. JOHNSTON (after reading the paper). Yes, sir.

Mr. PECORA. Mr. Chairman, I now wish to offer it in evidence.

The CHAIRMAN. Let it be admitted.

(An excerpt from the monthly letter on economic conditions to the executive committee of Henry L. Doherty & Co. for Dec. 1928, was marked "Committee Exhibit No. 83, Feb. 23, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. Now, Mr. Chairman, this excerpt just received in evidence as committee exhibit no. 83, reads as follows, under the caption "A Pivotal Element in 1929?":

The huge expansion of credit which took place in 1928 was made possible largely by idle funds in the hands of individuals, corporations, and foreign sources which were made available for security speculation through loans to brokers. Had it not been for this unforeseen large supply of credit there would probably have been an actual shortage of credit in 1928 when as it happened nothing more than an increase in interest rates took place. If these sources continue to supply credit in increasing amounts during 1929 all will be well for both the stock markets and business in general. If they merely hold their own or dry up to any degree, it seems highly probable that the driving force for both speculation and business will be found definitely lacking. It therefore seems that for the year 1929 much may depend upon the course of brokers' loans which are classified in banking figures as "for the account of others." This statement without further elaboration may seem to be rather dogmatic and arbitrary; but



its importance warrants mention at the first of the New Year, and the next issue of this letter will devote more space to a detailed discussion of the importance and trend of this factor.

Now, Mr. Johnston, I notice that this monthly letter on economic conditions, from which this extract is taken, was addressed to the executive committee of Henry L. Doherty & Co. What is the relationship between Henry L. Doherty & Co. and the Cities Service Co.?

Mr. JOHNSTON. Henry L. Doherty & Co. are fiscal agents for the Cities Service Co.

Mr. PECORA. Well, as such fiscal agents, what are the functions of Henry L. Doherty & Co.? How do they serve, in other words, the Cities Service Co.?

Mr. JOHNSTON. At that time the funds of Cities Service Co. and certain of its subsidiaries were deposited with Henry L. Doherty & Co.

Mr. PECORA. And what else?

Mr. JOHNSTON. Henry L. Doherty & Co. also maintained operating departments and financial advisors.

Mr. PECORA. Is Henry L. Doherty & Co. a corporation or is it a copartnership.

Mr. JOHNSTON. It is now an individual. But Mr. Doherty has no part in it.

Mr. PECORA. In 1929 was it a copartnership, firm, association, or corporation, or what was its legal form?

Mr. JOHNSTON. It was an individual doing business under the firm name of Henry L. Doherty & Co., since 1922.

Mr. PECORA. And the the individual who did business under the firm name of Henry L. Doherty & Co. was what person?

Mr. JOHNSTON. Henry L. Doherty.

Mr. PECORA. Now, was he also an officer or director of the Cities Service Co.?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. What office did he hold in it?

Mr. JOHNSTON. President.

Mr. PECORA. Do you know how long he has been president of the Cities Service Co.?

Mr. JOHNSTON. Since its organization.

Mr. PECORA. Which took place in what year?

Mr. JOHNSTON. In 1910.

Mr. PECORA. Now, the Cities Service Co. was organized as a holding company, I believe you said?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. And has functioned as such ever since its creation?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Do you know the utilities companies whose shares are principally held by the Cities Service Co.?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Can you name them?

Mr. JOHNSTON. The Electric Utilities are a group under the Cities Service Co. called the Cities Service Power & Light Co. The Cities Service Power & Light Co. have subsidiaries, and the principal ones are: Public Service Co. of Colorado, Ohio Public Service Co., Toledo Edison Co., Empire District Electric Co., St. Joseph Railway, Light,

Heat & Power Co., East Tennessee Light & Power Co., Danbury-Bethel Gas & Electric Co., and a number of other smaller companies.

The CHAIRMAN. Are they all subsidiaries, do you say, or affiliates, or what do you call them?

Mr. JOHNSTON. Subsidiaries of the Cities Service Power & Light Co.

Senator TOWNSEND. Is the Eastern Shore Gas & Electric Co. a subsidiary of Henry L. Doherty & Co.?

Mr. JOHNSTON. The Eastern Shore?

Senator TOWNSEND. Yes.

Mr. JOHNSTON. No, sir.

Mr. PECORA. Now, Mr. Johnston, I show you a printed document entitled "Monthly Letter on Economic Conditions to the Executive Committee, Henry L. Doherty & Co., January 1929."

Will you look at it and tell me if you recognize it as being a copy of a monthly letter prepared by Mr. Scheer for the executive committee of the Cities Service Co.?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(A printed document entitled "Confidential. Monthly Letter on Economic Conditions to the Executive Committee, Henry L. Doherty & Co., January 1929", was marked "Committee Exhibit No. 84, Feb. 23, 1934", and the entire document will be retained with the files of the committee, such portions thereof being read by Mr. Pecora immediately below as he wished to draw to the attention of the witness.)

Mr. PECORA. Mr. Chairman, this monthly letter is captioned or entitled, on the first page beneath the cover, "The Present Troublesome Part of Brokers' Loans. Its Effect on Security Markets and Business." And the first paragraph of it is as follows:

A new source of credit: Every few years some particular element in the business system takes on new and possibly dominating importance by virtue of its unusual expansions or contraction. In 1920 the climax of unprecedented speculation in commodity markets and expansion of productive activity were dominating factors affecting the subsequent depression. During 1928 the appreciable loss of gold and expansion of speculative credit were the dominating factors. This unusual expansion of credit for us in security markets was made possible largely through loans made to brokers by corporations and individuals. The chart reproduced below shows the rapid growth in brokers' loans over the past 3 years, and in particular the sudden rise in loans for the account of others (corporations, individuals, and foreign) during 1928.

In the last issue of this letter, under the heading "A Pivotal Element in 1929", it was stated that if this new source of credit merely holds its own or dries up to any degree, it seems highly probable that the driving force for both speculation and business will be found definitely lacking, and that therefore in the coming year much may depend upon the course of that portion of brokers' loans which is classified in banking reports as "for the account of others."

Origin of outside credit: Before discussing definite reasons for this view, it might be well to summarize briefly the origin and development of this new source of credit. As can be seen from the chart on page 5 of the August 1928 issue of this letter, bank credit and its base, gold, expanded rapidly from 1922 to early in 1928. Easy credit conditions during this period, aided by the Federal Reserve policy, and the increasing gold stock, were availed of by real estate enterprises, installment finance corporations, and by what is by far the most important—buyers of securities. Money was most plentiful and corporations took advantage of this and of the great demand for securities to float large amounts of new securities, which were used to build up cash reserves after bank loans were paid off, working capital increased, and some plant expansion taken care of. These cash reserves found employment in the call

money market. This condition, in general then, accounts for the source from which money is pouring into the security markets in the form of brokers' loans not originating in the banks themselves.

The above chart shows the astounding rate at which brokers' loans for the account of others (labelled uncontrolled) have advanced during 1928, a year when the United States credit base of gold was narrowed by approximately 500 millions of dollars from a total of approximately 4.5 billions. This outside credit has been termed uncontrolled because bank reserves need not be kept against such loans and because such transactions are practically as free and unregulated as a personal loan from one individual to another. The other curve on the chart showing the divisions of brokers' loans is labeled controlled and shows the relatively small increase in broker's loans supplied by the banks themselves.

And, Mr. Chairman, the chart on this page shows the astounding rate at which broker's loans "for account of others" labeled "controlled" have advanced during 1928, the year that the United States credit base of gold was carried up approximately \$500,000,000, or a total of approximately  $4\frac{1}{2}$  billion dollars. Then under the sub-heading "Present Importance of 'Loans for Others,'" I read the following:

The great importance of the present huge amount of broker's loans from outside sources lies in the fact that while the banks are not now directly concerned with loans from others, these loans do represent a potential call on bank credit. Any sudden withdrawal of money from the security markets by individuals, corporations, or through foreign accounts, must be met by the banks if chaos and disrupting gyrations in call money and in the stock market are to be avoided. This is quite clear when the close relationship between brokers' loans and stock prices is observed in the chart on the preceding page.

I might comment here, Mr. Chairman, that the chart to which reference has just been made would seem to show that the trend of stock prices almost parallel the trend of brokers' loans:

It is therefore quite certain that the present stock market cannot proceed further without the aid of a corresponding increase in loans for others. Should the stock market give ground, business would be adversely affected in three ways, although such effects would not be simultaneous or drastic. In the first place, purchasing power gained by the sustained advance in the stock market would be partially curtailed; secondly, the psychological effect in the form of loss of confidence would cause business to be hesitant in making future commitments; and finally, the ease with which new financing could be launched would be seriously affected.

These are briefly the chief reasons behind the following statement made in the December 1928 issue of this letter: "It therefore seems that for the year 1929 much may depend upon the course of brokers' loans which are classified in banking figures as 'for the account of others.'"

Now, Mr. Johnston, let me ask if you agree with the philosophy expressed in this monthly letter I have just read into the record.

Mr. JOHNSTON. In the light of events that have occurred since that letter was written, I think those points were well taken. But at the time I did not agree with them.

Mr. PECORA. Were you a member of the executive committee to whom this monthly confidential letter was addressed?

Mr. JOHNSTON. No, sir.

Mr. PECORA. Who composed the executive committee which received these monthly letters on economic conditions?

Mr. JOHNSTON. Mr. W. Alton Jones, chairman; Lewis F. Musil, John M. McMillan, Paul R. Jones, Frank R. Coates, H. O. Caster, F. C. Hamilton, T. F. Kennedy, R. G. Griswold.

Mr. PECORA. Of what corporation were these gentlemen the executive committee?



Mr. JOHNSTON. Henry L. Doherty & Co., not the corporation.

Mr. PECORA. They were the executive committee of this what?

Mr. JOHNSTON. Of Henry L. Doherty & Co.

Mr. PECORA. You stated before that Henry L. Doherty & Co. was simply Henry L. Doherty individually doing business under that name or style, Henry L. Doherty & Co.

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Well, did he have an executive committee?

Mr. JOHNSTON. As fiscal agents for the Cities Service Co. and its subsidiaries, he had an executive committee.

Mr. PECORA. Can you tell us what the purpose was in the preparation and circulation of these monthly letters back in 1928?

Mr. JOHNSTON. In 1928?

Mr. PECORA. Yes; back in 1928 and 1929 among the members of this so-called "executive committee" of Mr. Doherty's.

Mr. JOHNSTON. To acquaint them with an economist's ideas of the trend of finances and business generally, and also to explain the earnings records of the Cities Service Co. and its subsidiaries.

Mr. PECORA. Now, Mr. Johnston, I want to show you this printed document, and let me ask you if it consists of an excerpt from the monthly letter on economic conditions addressed to the executive committee of Henry L. Doherty & Co. in February of 1929.

Mr. JOHNSTON (after looking at the paper). Yes, sir.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(A paper entitled "Further Developments in Brokers' Loans", was marked "Committee Exhibit No. 85, Feb. 23, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The paper received in evidence as committee exhibit no. 85 reads as follows, under the caption "Further Developments in Brokers' Loans":

The importance of the volume of brokers' loans in the present credit and general business situations warrant periodic checking up of the course of these figures.

In the January issue of this letter it was stated that the great importance of the present huge amount of brokers' loans from outside sources lies in the fact that, while banks are not directly concerned with loans from others, these loans do represent a potential call on bank credit. In the first week of the new year this fact was clearly demonstrated. Brokers' loans from outside sources showed a sharp drop at the year end, due to the usual withdrawals made at this time for year-end settlements and requirements. These transactions left a void in brokers' loans of approximately \$375,000,000 which the New York banks promptly filled. Since then loans for others have returned in greater volume and the reporting member banks have withdrawn their relief fund.

The brief January drop in the stock market caused almost no liquidation of total brokers' loans. The more severe break in February did force a drop of about \$190,000,000 in a total of over 5.5 billion dollars. At the end of February the stock market has fully recovered to a new high and figures for brokers' loans of the last week in February advanced \$30,000,000, indicating that liquidation has about run its course for the present movement at least.

Thus we have the picture: Greater speculation, more and more uncontrolled money in brokers' loans, and continuation of the trend toward higher money which has been in process for over a year and a half. The situation is not comforting, from the business point of view.

Now, Mr. Johnston, did you agree with the observations and the philosophy of that monthly letter, or the portion thereof which I have just read?

Mr. JOHNSTON. I subscribe to these things now, in the light of events, but at the time it seemed to me they were a little too alarmed.

Mr. PECORA. Did you recognize then, that is, during the period when these letters were being written, that there was a direct relationship between brokers' loans and the trend of stock-market prices?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. And has it been your experience that that relationship is manifest at all times, generally speaking?

Mr. JOHNSTON. I have only the charts that are published by various services to guide me, but I think the trend shown in those charts is that there is such relationship.

Mr. PECORA. Now, during the year 1929, to your knowledge, did the Cities Service Co. make any loans on call?

Mr. JOHNSTON. Yes, sir. Henry L. Doherty & Co., acting as fiscal agents for the Cities Service Co., made the loans.

Mr. PECORA. And do you know the number and amounts of such loans made during the year 1929 by Henry L. Doherty & Co. as fiscal agents for the Cities Service Co.?

Mr. JOHNSTON. The total number of Street loans made in the call-money market of New York City was 912.

Mr. PECORA. And what was the total amount of the Street loans made in that year in the call-money market in New York City?

Mr. JOHNSTON. By adding up all the individual loans as they were made, even though some of them were made for only 1 day, we get a total of \$285,325,092.21. But, of course, not all this money was outstanding at any one time. The largest amount outstanding at any one time was \$41,900,000.

Mr. PECORA. And on what date, if you know, was that peak in the amount of loans outstanding?

Mr. JOHNSTON. September 25, 1929.

Mr. PECORA. That was about a month before the big break in the stock market?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Had the number and the aggregate amount of call-money loans made by or on behalf of the Cities Service Co. steadily increased during the year 1929, from the beginning up to and including September of that year?

Mr. JOHNSTON. They did not steadily increase. There were times when the amount would increase, and other days when they would decrease.

Mr. PECORA. But the general trend was rather toward an increase, wasn't it?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. From the beginning of the year up to September.

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Now, Mr. Johnston, following the break in the stock market, which, as you undoubtedly recall, took place in the latter part of October of 1929, can you tell this committee whether or not there was a perceptible drop in the number and amount of call loans made by or on behalf of the Cities Service Co. for the balance of the year 1929?

Mr. JOHNSTON. Yes, sir. We had no bank loans, or I mean——

Mr. PECORA (interposing). I beg pardon?



Mr. JOHNSTON. I say, we had no call loans by the end of the year.

Mr. PECORA. Now, had it been the policy of the Cities Service Co. prior to the year 1929 to make call loans in the Street?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. How many years had that policy been continued prior to 1929?

Mr. JOHNSTON. I do not recall the exact date, but there were call-money loans placed in 1919, and possibly in 1926, and the beginning of 1928, and—

Mr. PECORA (interposing). This was a time of considerable activity in the stock market as compared with the years immediately preceding, wasn't it?

Mr. JOHNSTON. I couldn't tell you about that.

Mr. PECORA. Had you completed your answer? I did not mean to interrupt you, Mr. Johnston, when you referred to 1919 and 1926, and were you beginning to mention some other period?

Mr. JOHNSTON. And the beginning of 1928 and 1929.

Mr. PECORA. Well, you do recall that in 1928 and throughout that year, and throughout the year 1929 and up to the latter part of October there was increased activity in stock-market trading?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Now, who had charge of the making of these call loans in behalf of the Cities Service Co. during the years 1928 and 1929?

Mr. JOHNSTON. The call loans were made under my supervision.

Mr. PECORA. Will you describe to the committee, briefly but concisely, the mechanism by which those loans were made? Just describe the general operation of the making of those call loans.

Mr. JOHNSTON. During the day we would call a money broker on the telephone and tell him how much money we wished to loan on call that day.

Mr. PECORA. By "money broker" do you mean a member of the New York Stock Exchange?

Mr. JOHNSTON. They are usually members of the New York Stock Exchange; yes, sir.

The CHAIRMAN. Does a money broker differ from other brokers, or bankers, or investment people, or is he a specialist of some kind?

Mr. JOHNSTON. I think in the case of certain firms that would be the firm's specialty. In the case of other firms it would be just one department.

Mr. PECORA. Now, Mr. Johnston, will you continue with your explanation of the method or the machinery by which those call loans were made by you?

Mr. JOHNSTON. A little later on the money broker, or the office of the broker, would call up and give us the list of the loans which had been made. And then later on in the afternoon the brokers' messengers would bring in to us envelopes in which there was the collateral for the loans. Our clerks would take the envelopes and the collateral, check it, and hand the messenger our check for the amount.

The CHAIRMAN. What would the collateral consist of?

Mr. JOHNSTON. A variety of stocks listed on the New York Stock Exchange.



Senator TOWNSEND. Were all of your loans made through brokers in the manner you have indicated?

Mr. JOHNSTON. I believe the majority of them were. Occasionally some broker would call us direct and ask if he could send around a loan that day.

Mr. PECORA. Those loans were invariably made to brokers themselves, weren't they?

Mr. JOHNSTON. Yes; to members of the New York Stock Exchange.

Mr. PECORA. Were they made by the Cities Service Co. without the interposition of any bank?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. That is, the loans were made directly by the Cities Service Co. to the various brokers who received them?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. And who determined the interest rates at which those loans were made?

Mr. JOHNSTON. The interest rates were determined on the floor of the stock exchange and published.

Mr. PECORA. And they varied from day to day, did they?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. And sometimes they varied during the day?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. What was the general range, Mr. Johnston, of the interest rates, we will say, during the year 1929, beginning with January and ending with October?

Mr. JOHNSTON. Well, roughly speaking, I should say from about 5 percent to about 15 percent.

The CHAIRMAN. The rate went as high as 20 percent, didn't it?

Mr. JOHNSTON. I recall a 20-percent rate during a prior period. I don't recall whether it was during 1928 and 1929 that they reached 20 percent or not.

Mr. PECORA. Do you recall that in March, I think it was of 1929, the National City Bank sent in \$25,000,000 to the money posts of the New York Stock Exchange, which was loaned at rates ranging from 16 to 20 percent?

Mr. JOHNSTON. I remember the incident; yes, sir.

Mr. PECORA. What was the incident?

Mr. JOHNSTON. Just as you have stated, only I do not recall definitely the rate.

Mr. PECORA. That money was loaned at the time when the Federal Reserve bank sought to put a check on speculation through raising of the rediscount rates, and that action was nullified by this action of the National City Bank. Do you recall that?

Mr. JOHNSTON. I think that is my recollection; yes, sir.

Mr. PECORA. Can you give this committee the amounts received by the Cities Service Co. during the year 1929 by way of interest on these street loans?

Mr. JOHNSTON. I am sorry, sir; I did not prepare myself with that figure.

Mr. PECORA. Can you give us an approximation of the amount, it being understood that it is only an approximation and subject of course to correction?

Mr. JOHNSTON. The average daily amount of call loans outstanding was a little over \$10,000,000.

Mr. PECORA. \$10,375,000 approximately, wasn't it?

Mr. JOHNSTON. Yes, sir. So to take a percentage of 5 percent of that—

Mr. PECORA (interposing). Now you are taking the lowest rate, aren't you?

Mr. JOHNSTON. I was going to say, if you took 5 percent that would be \$500,000.

Mr. PECORA. At 5 percent?

Mr. JOHNSTON. Five percent.

Mr. PECORA. But the range of the interest rates ran from 5 to 15 percent?

Mr. JOHNSTON. It was higher than 5; yes, sir. Those higher rates were few and far between.

Mr. PECORA. Would it be possible for you to get, for the benefit of this committee, after today from your office records the figure that I have asked for?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Can you tell us this, Mr. Johnston: What was the average period of time for which those call loans were made in 1928 and 1929?

Mr. JOHNSTON. I should judge the average loan would stay out 4 or 5 days.

Senator TOWNSEND. Mr. Johnston, how was this surplus of money which Cities Service was loaning in the Street obtained? Was it a profit on their business or how was it obtained?

Mr. JOHNSTON. Partly from the earnings of the operating companies, and partly from the sale of securities.

Senator TOWNSEND. Sale of securities—what do you mean by that?

Mr. JOHNSTON. Cities Service Co. and its subsidiaries.

The CHAIRMAN. Issuing stock and selling stock?

Mr. JOHNSTON. Different kinds of securities were issued. There was stock issued; yes, sir.

Senator TOWNSEND. What portion of this money was received by the sale of Cities Service stock itself?

Mr. JOHNSTON. Well, it is hard to tell just where any portion of certain sums of money comes from. Sources of income are varied, and the disbursements are also varied.

Senator TOWNSEND. Do you recall the amount of Cities Service stock sold, we will say, in the year 1929, and the prices obtained for it?

Mr. JOHNSTON. I do not recall at the moment those figures; no, sir.

Mr. PECORA. Could you give the figure with some degree of approximation?

Mr. JOHNSTON. It is too far back.

Mr. PECORA. What would be your best estimate at this time of that figure?

Mr. JOHNSTON. The number of shares of stock?

Mr. PECORA. No; the amount realized from the sale of stock in that year.

(There was a pause without response.)

Senator TOWNSEND. It would suffice if you would get that for the record, the amount of stock sold in 1929 and the prices obtained and the amount of money received.

Mr. JOHNSTON. It is quite a large amount, and it would be just a guess in any one year.

Mr. PECORA. Will you get that figure also, Mr. Johnston, and send it to me at the New York office and I will submit it to the committee?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. You might give us that figure for both the years 1928 and 1929 separately stated for each of those years.

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Now I show you, Mr. Johnston, a letter addressed to me as counsel to this committee by some gentleman connected with the Cities Service Co. whose signature I cannot read, dated November 1, 1933, which refers to accompanying data. Will you look at it and tell me if you recognize it to be a letter caused to be sent to me as counsel for this committee by the Cities Service Co. on or about November 1, 1933, with the accompanying data which I also show you?

Mr. JOHNSTON (after examining document). Yes, sir; the first letter is signed by Mr. W. Alton Jones, and the second by Mr. W. B. S. Winans.

Mr. PECORA. Yes. I offer the letters and accompanying data in evidence.

The CHAIRMAN. Let them be admitted.

(Letter dated Nov. 1, 1933, from W. A. Jones to Ferdinand Pecora, together with accompanying data, was designated "Committee Exhibit No. 86, February 23, 1934". The letter appears in the record in full, immediately following, where read by Mr. Pecora, and the exhibit appears in full at the close of the day's proceedings.)

Mr. PECORA. The exhibit has been marked no. 86 in evidence, and the forwarding letter reads as follows [reading]:

CITIES SERVICE COMPANY,  
November 1, 1933.

Mr. FERDINAND PECORA, *Counsel*—

Et cetera—

MY DEAR Mr. PECORA:

With further reference to your inquiry of October 26, you will find enclosed herewith complete questionnaire, which we trust you will find in order.

Sincerely yours,

W. A. JONES.

Is that—

Mr. JOHNSON. Yes, sir.

Mr. PECORA. W. Alton Jones. The enclosures consist of the so-called "questionnaire", entitled "Questions and answers regarding call loans of year 1929", and gives the figures that have already been testified to by the witness, namely, total number of loans in the call money market in New York City that were made during the year 1929 was 912; that the total amount of those loans in that year was \$285,325,092.21; that the maximum amount of call money on any one day was \$41,900,000; that the average daily amount of call loans outstanding during the year made by the company was \$10,-375,778.23, and that the average amount of each call loan made was \$312,856.46, and that such loans were not made through any commercial bank, private bank, or any other agency, but made directly to the borrower.



The other letter, addressed to me on behalf of the Cities Service Co., and signed by W. B. S. Winans, reads as follows [reading]:

NOVEMBER 11, 1933.

Committee on Banking and Currency,  
and so forth.

DEAR SIR: In response to your telephone request we enclose herewith a statement accounting for the call loans outstanding on the day in the year 1929 when call loans were in the largest amount. The list attached indicates to whom loans were made and the amounts involved, the total of which was \$41,900,000.

In respect to your inquiry regarding the total number of shares transferred in 1929, we wish to advise that from January 1st, 1929 to May 1st, 1929, 3,936,159 shares of \$20 per value stock were transferred, and from May 2, 1929 to December 31, 1929, 49,500,528 shares of no par value stock were transferred.

Yours very truly,

W. B. S. WINANS.

The stock referred to in this letter which I have just read into the record, Mr. Johnston, was the stock of the Cities Service Co.?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. What was the total number of shares of common stock \$20 per value that that company had outstanding in the year 1929?

Mr. JOHNSTON. Probably between seven and eight million shares.

Mr. PECORA. According to the information or data embodied in this letter of Mr. Winans of November 11, 1933, the transfers made on the books of the company of its common stock \$20 par value during the year 1929 were about seven times the amount of stock outstanding, were they not, between six and seven times?

Mr. JOHNSTON. I did not get that.

Mr. PECORA. You said the total number of shares outstanding in that year was between seven and eight million?

Mr. JOHNSTON. Yes.

Mr. PECORA. The total number of shares transferred from January 1 to December 31, 1929, according to the advices embodied in Mr. Winans' letter, was 53,486,787 shares.

Mr. JOHNSTON. That figure includes stock with no par value, which in about May of 1929 was issued four shares for one of the \$20 par, and therefore the number of shares of no par value would be in the neighborhood of 30 to 35 million.

Mr. PECORA. That was after May 1929?

Mr. JOHNSTON. Yes; about May 1.

Mr. PECORA. These figures merely relate to the transfers made on the books of the company, don't they?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. And you would say, would you not, that those figures would not include the total amount traded in in the shares of the stock of your company during the year 1929?

Mr. JOHNSTON. The number of shares traded in and the number of shares transferred would be two different figures.

Mr. PECORA. Yes. The number of shares traded in would be far in excess of the number of shares transferred on the books?

Mr. JOHNSTON. I would not say that, Mr. Pecora, because there may be transfers for other purposes than just trading on the exchange.

Mr. PECORA. Well, don't you find as a matter of experience and observation that the number of shares of a given stock bought and sold throughout the year on the floor of the exchange, assuming it is a listed security, far exceeds the number of transfers made on the books of the issuing company?

Mr. JOHNSTON. I think they would exceed them; yes.

Mr. PECORA. Several times over?

Mr. JOHNSTON. Probably not. In individual cases there may be transfers of large blocks of stock that did not involve any trading.

The CHAIRMAN. Were there transfer taxes paid on these?

Mr. JOHNSTON. Oh, yes; the transfer tax was paid by the seller.

The CHAIRMAN. What would that amount to?

Mr. JOHNSTON. I have no figures for that at the moment.

Mr. PECORA. Could you also send to our office in New York within the next few days from your records the total amount of shares traded in during the year 1929?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Bought and sold on the floor of the exchange?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. All right, sir. Now, among the data which accompanied the letter marked in evidence here as exhibit no. 86, and which forms a part of that exhibit in this record, is a statement entitled "Details of maximum call loans outstanding any 1 day, 1929—September 25, 1929", and gives the names of the brokers to whom call loans were made on that day to an amount aggregating \$41,900,000.

I have no further questions to ask the witness, Mr. Chairman. Have you any information or any statement you would like to make to this committee without being asked specifically about it, Mr. Johnston?

Mr. JOHNSON. No, sir; not at this moment.

The CHAIRMAN. Is the H. L. Doherty Co. still the fiscal agent of the Cities Service?

Mr. JOHNSTON. Yes, sir; but they do not carry the funds of the corporations in their name in the banks at this time. The funds of the Cities Service Co. and its subsidiaries are carried in the banks in their own name.

The CHAIRMAN. Each subsidiary?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Is there any commission arrangement between Henry L. Doherty & Co. and the Cities Service Co. determining the compensation paid to Henry L. Doherty & Co. for its services as fiscal agent for the corporation?

Mr. JOHNSTON. No, sir.

Mr. PECORA. I assume that Henry L. Doherty & Co. do collect or receive fees, commissions, or compensation in some form?

Mr. JOHNSTON. No, sir.

Mr. PECORA. They render that service gratis?

Mr. JOHNSTON. Yes, sir. The expenses, of course, are charged up to Cities Service Co. also.

The CHAIRMAN. Were fees paid to the brokers with whom you negotiated these loans?

Mr. JOHNSTON. The borrower paid a small fee to the money broker. We did not.

The CHAIRMAN. Do you know what that fee would amount to? What was the small fee you mentioned?

Mr. JOHNSTON. I do not recall at this time.

Mr. PECORA. That is, the broker to whom the loan was made would pay not only the interest on the loan but would also pay a small fee to the money broker?

Mr. JOHNSTON. Yes, sir.

Mr. PECORA. Through whose instrumentality the loan from the Cities Service Co. was secured?

Mr. JOHNSTON. Yes, sir.

Senator KEAN. That is not over one sixty-fourth of 1 percent, is it?

Mr. JOHNSTON. Well, it never passed through our office, so I could not say exactly what the fee was.

Senator KEAN. I think it is about one sixty-fourth of 1 percent.

The CHAIRMAN. I believe that is all, Mr. Johnston. You will be excused, sir.

Mr. JOHNSTON. Thank you.

Mr. PECORA. Is Mr. Groesbeck in the room, please?

#### TESTIMONY OF C. E. GROESBECK, CHAIRMAN OF THE BOARD OF ELECTRIC BOND & SHARE CO., NEW YORK CITY

The CHAIRMAN. Mr. Groesbeck, you do solemnly swear that the testimony you are about to give in the matters under investigation by this committee will be the truth, the whole truth, and nothing but the truth. So help you God.

Mr. GROESBECK. I do. May I bring my associate with my papers here?

Mr. PECORA. Yes. What is your full name, Mr. Groesbeck; and your address?

Mr. GROESBECK. C. E. Groesbeck. My office address is 2 Rector Street, New York. My home address is Locust Valley, L.I.

Mr. PECORA. Mr. Groesbeck, are you connected with a corporation called Electric Bond & Share Co.?

Mr. GROESBECK. I am, sir.

Mr. PECORA. In what capacity?

Mr. GROESBECK. I am chairman of the board.

Mr. PECORA. How long have you been connected in any capacity with the Electric Bond & Share Co.?

Mr. GROESBECK. Well, about 17 years.

Mr. PECORA. How long have you been the chairman of its board?

Mr. GROESBECK. About 11 months.

Mr. PECORA. And immediately prior to that were you connected with it in any other official capacity?

Mr. GROESBECK. I was, sir. I was president of the company prior to that time.

Mr. PECORA. And how long had you been president?

Mr. GROESBECK. Well, for several years. I don't know that I can—well, until sometime in 1929.

Mr. PECORA. And you have been a member of the board of directors of the Electric Bond & Share Co. for many years?



Mr. GROESBECK. For several years; yes, sir.

Mr. PECORA. When was the Electric Bond & Share Co. organized?

Mr. GROESBECK. In 1905.

Mr. PECORA. Is it a holding company?

Mr. GROESBECK. Well, it is a holding company in the sense that it owns the securities of a number of companies.

Mr. PECORA. What is the kind of business conducted by the various companies whose securities it owns?

Mr. GROESBECK. Public-utility business.

Mr. PECORA. During the year 1929, to your knowledge did the Electric Bond & Share Co. make call-money loans to brokers in the city of New York?

Mr. GROESBECK. It did.

Mr. PECORA. Were those loans made by your company directly or were they made through the medium of any banks or bankers?

Mr. GROESBECK. All through bankers; through banks and trust companies. All through banks and trust companies.

Mr. PECORA. Will you name the banks and trust companies through whom such loans were made by your company?

Mr. GROESBECK. May I have the privilege of referring to the record?

Mr. PECORA. Surely.

Mr. GROESBECK (referring to date). The Irving Trust Co., the Guaranty Trust Co., the Bankers Trust Co., the Central Hanover, the Chemical Bank & Trust Co., the Chase National Bank, and the National City Bank, all of New York.

Mr. PECORA. In those call-money loans that were made during that year by your company, were there included loans made by a corporation called the "American & Foreign Power Co., Inc."?

Mr. GROESBECK. Yes, sir.

Mr. PECORA. Is that one of the subsidiaries of the Electric Bond & Share Co., or is it one of the—

Mr. GROESBECK. Well, it is one of the associated companies. We control a very large amount of their stock.

Senator KEAN. You do not absolutely control that stock, do you?

Mr. GROESBECK. We have the majority of the stock, sir.

Mr. KEAN. You have it?

Mr. GROESBECK. Yes, sir; American & Foreign Power Co.

Mr. PECORA. You own 75 percent or more of its stock?

Mr. GROESBECK. No. No; to be quite technical about it, we own just a little under the 50 percent of the common stock, but we own enough other stock so that we could make it over 50 in case it became desirable to do so. It is so close that it is rather a technical point to make.

Mr. PECORA. There is no question that the stock owned by the Electric Bond & Share of the American & Foreign Power Co., Inc., is enough to give it management control easily?

Mr. GROESBECK. Yes, sir.

Mr. PECORA. What was the total number of call loans made to brokers in New York City by the Electric Bond & Share Co., either in behalf of itself or itself and subsidiaries or associated companies during the year 1929?

Mr. GROESBECK. One thousand six hundred and sixty-three.

Mr. PECORA. And what was the aggregate amount of those loans in the year 1929?

Mr. GROESBECK. By that you mean, Mr. Pecora, the accumulated total?

Mr. PECORA. Aggregate amount of all of these 1,663 loans; yes.

Mr. GROESBECK. Regardless of whether they were turned over daily?

Mr. PECORA. Yes.

Mr. GROESBECK. \$867,295,000.

Senator KEAN. That means that loans were paid from day to day and that you reloaned the money to somebody else?

Mr. GROESBECK. Right.

Senator KEAN. So that it might be that \$100,000 would make 365?

Mr. GROESBECK. Yes; that is it precisely.

Mr. PECORA. Yes; that is understood. This figure of \$867,295,000 which you have given us, Mr. Groesbeck, represents the aggregate amount of all of the 1,663 call loans which your company made during the year 1929?

Mr. GROESBECK. That is right.

Mr. PECORA. What was the highest amount of such loans outstanding on any single day during the year 1929?

Mr. GROESBECK. \$187,900,000.

Mr. PECORA. And on what date was that amount outstanding?

Mr. GROESBECK. August 27, 1929.

Mr. PECORA. What was the daily average of these loans for the year 1929 which your corporation made?

Mr. GROESBECK. \$100,727,010.

Mr. PECORA. Which officer or board of officers of your corporation supervises the making of these call loans?

Mr. GROESBECK. Directly the mechanics were carried by the treasurer of the company.

Mr. PECORA. Are you familiar with those mechanics, Mr. Groesbeck?

Mr. GROESBECK. No; I am not, Mr. Pecora, but I can get you any information you want.

Mr. PECORA. Do you know at what rates of interest these loans were made during the year 1929? That is, what was the range?

Mr. GROESBECK. Well, generally speaking, I should say from recollection that they ran from around 5 to 15 percent.

Mr. PECORA. That is, they were made at the current rates?

Mr. GROESBECK. At the current rates; yes, sir; whatever the prevailing rate was.

Mr. PECORA. And that ranged generally from 5 to 15 percent throughout the year?

Mr. GROESBECK. I heard a statement made that the rate was higher than that before, but I cannot speak of that of my own knowledge.

Mr. PECORA. Do you know the amount received by the Electric Bond & Share Co. by way of interest on these loans for the year 1929?

Mr. GROESBECK. I am sorry, Mr. Pecora; I haven't that.

Mr. PECORA. That can be furnished to us by your company?

Mr. GROESBECK. It can; yes, sir. And may I say that I received this subpoena only yesterday at 1 o'clock, which was a holiday, and our treasurer was in the country many miles from the office, and I

did not get a hold of him until 3 o'clock yesterday afternoon. So perhaps I have not quite as much information as I should have.

Mr. PECORA. That is quite all right, sir; if you will get us the information at your early convenience and send it to me so that I will present it to the committee.

Mr. GROESBECK. I will be very glad to, sir.

Mr. PECORA. Had it been the business or practice of the Electric Bond & Share Co. and its associated companies to make call-money loans to brokers prior to the year 1929?

Mr. GROESBECK. Yes; we had several years before, but not to brokers, Mr. Pecora. Through the same channel, through the banks.

Mr. PECORA. Through the banks?

Mr. GROESBECK. Yes, sir.

Mr. PECORA. The loans were made to brokers through the medium of your banks?

Mr. GROESBECK. Yes, sir.

Mr. PECORA. For how many years prior to 1929 had your company made such loans as part of its business operations?

Mr. GROESBECK. Probably 3 years, Mr. Pecora, but we will be glad to get that information exactly from our records, if you desire. Would you like it?

Mr. PECORA. Yes. Would you say, Mr. Groesbeck, that the greatest number of these loans and for the greatest aggregate amount were made in the year 1929?

Mr. GROESBECK. By far.

Mr. PECORA. And what was that due to?

Mr. GROESBECK. The attractive interest rates.

Mr. PECORA. And those attractive interest rates were due to the very, very active speculation in securities?

Mr. GROESBECK. Well, I don't know that I am qualified to pass on that.

Mr. PECORA. I don't think you need be so modest.

Mr. GROESBECK. I am not an economist and I am not a banker, and I really do not know that my opinion would be worth anything on that, Mr. Pecora.

Mr. PECORA. Recognizing you are neither a banker nor an economist, your opinion might be of some value.

Mr. GROESBECK. Will you repeat the question, please?

The SHORTHAND REPORTER. "And those attractive interest rates were due to the very, very active speculation in securities?"

Mr. PECORA. During the year 1929.

Mr. GROESBECK. I would like to answer you, but really all I can do would be to give you a guess.

Mr. PECORA. Well, even your guess might be illuminating.

Mr. GROESBECK. My guess would be that the activity in the securities market contributed to the high interest rates. I am not trying to evade the question, Mr. Pecora, but—

Mr. PECORA. To your knowledge that activity in the securities market was unprecedented in the year 1929, wasn't it?

Mr. GROESBECK. Greatest I have even seen or heard of; yes, sir.

Mr. PECORA. And would you say, as executive of a corporation that held securities of many utilities companies, that that speculation, in its volume and the manner in which it was conducted, was a good, wholesome thing for the national economy?



Mr. GROESBECK. We had lots of advice in that period, both from foreigners and Americans that we were in a new era and that things were going on at that rate forever, but in the light of events we know that that did not happen.

Mr. PECORA. You know that the reverse happened, in the light of events?

Mr. GROESBECK. Something has happened; I know that.

Mr. PECORA. Something happened that had the opposite trend?

Mr. GROESBECK. Right; yes, sir.

Mr. PECORA. To an advance or a continuation of that so-called "prosperity"?

Mr. GROESBECK. Yes, sir.

Mr. PECORA. You recall, don't you, that there was a very severe break in securities prices on the stock exchanges late in October 1929?

Mr. GROESBECK. I do.

Mr. PECORA. Following that break or shortly thereafter did your company cease making these call loans?

Mr. GROESBECK. We reduced.

Mr. PECORA. Very considerably?

Mr. GROESBECK. Very considerably; yes, sir.

Mr. PECORA. Because stock market activity reduced?

Mr. GROESBECK. Because we could not get the return, the interest rate.

Mr. PECORA. Well, the severe drop in securities prices at that time was a contributing factor to that, wasn't it?

Mr. GROESBECK. Again you are getting a little way out of my field, Mr. Pecora.

The CHAIRMAN. The demand for these loans fell off after October?

Mr. GROESBECK. Very materially, I assume. Otherwise the interest rates would not have gone down so rapidly.

The CHAIRMAN. How did your loans run, say, in November and December 1929?

Mr. GROESBECK. I am sorry, Mr. Chairman, I haven't the figures, but I can say that they were reduced substantially, and I can get the figures—be very glad to if you desire them.

Mr. PECORA. During the year 1930 did your company continue making these call loans?

Mr. GROESBECK. We did.

Mr. PECORA. But in a very much decreased amount?

Mr. GROESBECK. Yes, sir.

Mr. PECORA. How about the year 1931?

Mr. GROESBECK. I should have to look that up, Mr. Pecora.

Mr. PECORA. Will you look it up also for the year 1932 and the year 1933?

Mr. GROESBECK. Yes.

Senator KEAN. Mr. Groesbeck, you had a large amount of money loaned in 1929. Then the rates were very high?

Mr. GROESBECK. Yes, sir.

Senator KEAN. After 1930 the rate on the stock exchange went down to something like 2 percent, didn't it?

Mr. GROESBECK. I believe it did; yes, sir.

Senator KEAN. Therefore you could deposit this money in a trust company and receive more money than you could on the stock exchange for it?

Mr. GROESBECK. I am not sure, Senator, that those are the facts. I am not attempting to contradict you, but my own knowledge of the thing is pretty hazy.

Senator KEAN. If the trust company was paying for deposits 3½ percent and the stock exchange loans were down to 2 percent, there was a difference there that you ought to have taken cognizance of; is that right?

Mr. GROESBECK. Yes, sir. And if those were the conditions, I think undoubtedly we did take advantage of the conditions.

Mr. PECORA. Have you any thought, Mr. Groesbeck, that during the year 1929 and during the year 1928 the unusual activity in the stock market could have been possible, could have been sustained, without the making available to brokers these tremendous sums of money by way of call loans?

Mr. GROESBECK. I have no real opinion on that, Mr. Pecora. Again, that is—

Mr. PECORA (interposing). Again I think you are modest.

Mr. GROESBECK. Again that is a little out of my field.

Mr. PECORA. Do you know the average period of time for which these call loans were made by your company in the year 1929?

Mr. GROESBECK. I haven't that, Mr. Pecora. I will have to get it for you if you desire it. Shall we make a note of it?

Mr. PECORA. If you don't mind.

Senator KEAN. Mr. Groesbeck, these loans were call loans, so that all you had to do was to notify the people that you had loaned the money through that you wanted the money back and they would have had to pay it by 2:15?

Mr. GROESBECK. That is correct, sir.

Mr. PECORA. Mr. Groesbeck, you have stated that the aggregate amount of the 1,663 call loans which your company made in 1929 is \$867,295,000; that the peak amount in any 1 day in that year was \$187,900,000, and that the daily average of those loans for the year was \$100,727,110.

Now, in view of the fact that the daily average of your call loans for the year was over a hundred million dollars, isn't there an error in the aggregate amount of those loans for the year as being only \$867,000,000?

Mr. GROESBECK (after consulting associate). Well, I think the figures are right, Mr. Pecora. I will be very glad to have them checked.

Mr. PECORA. You see, the daily average being more than a hundred million dollars, the total number of loans 1,663, I would think that the aggregate amount of all those loans would greatly exceed \$867,000,000, if these were the usual kind of call-money loans made for a few days at a time, usually 1 day.

Mr. GROESBECK (after consulting associate). Well, some of these loans may have run for a week or 30 days or longer, which would reduce the turn-over.

Mr. PECORA. Yes; but you had 1,600 loans. The daily average for the year was a hundred million dollars. There were call loans usually made for very short periods of time, as a rule a day or two. I think perhaps there is a mistake somewhere in the figures that you have given us as the aggregate.

Mr. GROESBECK. May we verify them and send you the answer?

Mr. PECORA. Yes.

Mr. GROESBECK. Thank you.

Mr. PECORA. Now, I show you, Mr. Groesbeck, a communication addressed to me as counsel to this committee by your company over the signature of its treasurer under date of November 9, 1933. Will you look at it and tell me if you recognize it to be a letter so addressed to me in behalf of your company? That was sent to us, if you notice, in response to a questionnaire that we submitted to your company.

Mr. GROESBECK (after examining document). I identify this as a letter addressed to you by the treasurer of our company.

Mr. PECORA. Yes. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Nov. 9, 1933, from A. C. Ray, treasurer Electric Bond & Share Co., to Ferdinand Pecora, counsel, Committee on Banking and Currency, was designated "Committee Exhibit No. 87, February 23, 1934", and appears in full in the record at the end of today's proceedings.)

Mr. PECORA. The letter has been marked in evidence as "Exhibit No. 87", on the letterhead of the Electric Bond & Share Co., and reads as follow [reading]:

NOVEMBER 9, 1933.

DEAR MR. PECORA: In accordance with the request contained in your letter of October 28, I desire to report as follows in answer to your questionnaire:

A.-1. The total number of shares of the Common Stock of Electric Bond and Share Company appearing on our records as of June 18, 1929\* in the name of such stock brokerage firms as we were able to identify as stock brokerage firms was 2,112,222.

It then states that the total number of such brokers and brokerage firms on the records of the Electric Bond & Share as of June 18, 1929, as the owners of the common stock of that company was 510. It gives other information which will be spread in the record from the reading of the letter.

It states also total number of shares of the common stock of Electric Bond & Share Co. transferred from the books from one ownership to another during the year 1929 was 10,796,073 shares. It states further that the total number of transfers of common stock of Electric Bond & Share Co. from one ownership to another during the year 1929 was 141,569. And then gives the other information with regard to call money loans which the witness has already given in the course of his examination.

The CHAIRMAN. What was the total capital of the Electric Bond & Share Co.?

Mr. PECORA. That is, of its common stock, how many shares were outstanding during the year 1929?

Mr. GROESBECK. Early in the spring of 1929 the capitalization of the company was changed, and thereafter the outstanding common stock was around 5 million shares.

Mr. PECORA. Do you know what the total volume of trading in that stock was through the medium of any securities exchange during that year?

Mr. GROESBECK. I do not.

Mr. PECORA. The stock was listed, was it not, on the New York—



Mr. GROESBECK. On the curb; yes, sir.

The CHAIRMAN. Curb, or on the exchange?

Mr. GROESBECK. On the curb.

The CHAIRMAN. Not on the New York Stock Exchange?

Mr. GROESBECK. Not on the New York Stock Exchange.

The CHAIRMAN. What was the par value?

Mr. GROESBECK. \$5 a share.

Mr. PECORA. Now, I show you another communication in the form of a letter addressed to me under date of November 9, 1933, by the American & Foreign Power Co., Inc., through its treasurer, A. C. Ray. Will you look at it and tell me if you recognize it as being a letter caused to be sent on behalf of that company to me under date of November 9, 1933?

Mr. GROESBECK (after examining document). I identify this as a letter from the treasurer of the American & Foreign Power Co., addressed to you.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Nov. 9, 1933, from A. C. Ray, treasurer, American & Foreign Power Co., to Ferdinand Pecora, counsel, Committee on Banking and Currency, was designated "Committee Exhibit No. 88, February 23, 1934", and appears in full in this record at the end of today's proceedings.)

Mr. PECORA. The letter has been received in evidence as exhibit no. 88 of this date, and I ask that it be spread in full on the minutes, and I merely want to call the attention of the committee at this time to the following information embodied in the letter: That the total number of shares in the common stock in the American & Foreign Power Co., Inc., transferred on the books from one ownership to another during the year 1929 was 1,930,679, and that the total number of transfers on the books from one ownership to another of such common stock for the year 1929 was 32,159.

It also states that the total amount of street loans made during that year by the American & Foreign Power Co. was \$57,610,000; that the peak amount of such call loans at any 1 day during that year was \$30,321,000, and that the daily average amount of such loans for the year 1929 was \$6,477,729, and that all those call loans were made through commercial banks.

This letter further states that the figures with regard to call loans made by the American & Foreign Power Co. during the year 1929 are included in the figures already put into the record through the testimony of Mr. Groesbeck as the call loans made by Electric Bond & Share Co.

Mr. GROESBECK. Correct.

Mr. PECORA. Were the shares of the common stock of the American & Foreign Power Co. listed on any securities exchange?

Mr. GROESBECK. The New York Stock Exchange.

Mr. PECORA. Do you know the total amount of common stock that company had issued and outstanding during the year 1929?

Mr. GROESBECK. I am sorry I do not know offhand what it was at that time, but I will be glad to send it to you.

Mr. PECORA. Also the total amount of trading in the common stock of that company during the year 1929?

Mr. GROESBECK. We will get that from the exchange turnover; yes, sir.

Mr. PECORA. Also, in connection with this letter from the American & Foreign Power Co., it strikes me that the aggregate amount for the entire year of the call loans made by that company and stated here to be \$57,610,000 might be erroneous in view of the fact that the daily average of the call loans made by the company during the year was \$6,477,000. Will you also check up that total for the year?

Mr. GROESBECK. We will.

Mr. PECORA. From what source did these two companies, Electric Bond & Share Co., and American & Foreign Power Co., obtain the moneys which they used in the making of these call loans?

Mr. GROESBECK. From the sale of securities, and in the Electric Bond & Share figure, as stated here, we were loaning the money for a considerable number of affiliated companies. We were handling their funds for them.

Mr. PECORA. Were their funds also derived principally from the sale of securities?

Mr. GROESBECK. The sale of securities and earnings. They have peaks and valleys. During a period of months they will be accumulating earnings for interest or dividends. During that period their money is idle. Then they get a demand, on the 1st of January, or the 1st of July, or any other date, for dividend money, for construction money, or for interest money, and their surplus funds during this period were employed to some extent in this manner.

Mr. PECORA. Mr. Groesbeck, is there any other evidence or information you feel like giving to this committee on this general subject without being specifically questioned?

Mr. GROESBECK. I think not, Mr. Pecora.

Senator KEAN. I would like to ask some questions. Mr. Groesbeck, an electric company, in which you are interested or in which the company is interested, sells some securities with the idea of building a new powerhouse, and then it receives the money for those securities. That is correct, is it not?

Mr. GROESBECK. Yes.

Senator KEAN. It then makes a contract with somebody to build that powerhouse, and it pays that money out as a proportion of that work is completed?

Mr. GROESBECK. Yes.

Senator KEAN. Therefore, they have the money on hand until that project is completed.

Mr. GROESBECK. Right.

Senator KEAN. And in order to earn some interest on that money they either deposit it in a bank or loan it on call on the stock exchange.

Mr. GROESBECK. Correct, sir.

Senator KEAN. That is all.

Mr. GROESBECK. And, if I may say a word on that, Senator, this money is really bought in the money market, and you have to buy it when you can. You sell your securities when you can. Funds pile up, as you have pointed out, against commitments. If these are mortgage obligations interest must be paid on those obligations from the time the money is acquired. The purpose of this loaning is to

secure some earnings to offset the interest charges against the time the money becomes really productive in the business.

The CHAIRMAN. Has the Electric Bond & Share Co. kept up its dividends?

Mr. GROESBECK. On preferred stock; yes, sir. We have discontinued dividends on our common stock.

The CHAIRMAN. How about these different corporations?

Mr. GROESBECK. Many of them have been obliged to cut or entirely eliminate their preferred-stock dividends.

Mr. PECORA. Would you say that a very substantial portion of the moneys the Electric Bond & Share Co. loaned on call in 1929 represented proceeds from the sale of its securities?

Mr. GROESBECK. I would not be able to give you an answer on that, Mr. Pecora, without making an examination, and again may I say that I had such short notice that I did not have a chance to get in the office to get anything at all yesterday.

Mr. PECORA. That information can be furnished to us subsequently?

Mr. GROESBECK. Very gladly. Shall we make a note of it?

Mr. PECORA. If you please. I think that is all, Mr. Groesbeck.

The CHAIRMAN. Did you have any losses on any of these call loans, Mr. Groesbeck?

Mr. GROESBECK. None.

The CHAIRMAN. That is all.

Mr. PECORA. Is there an officer here from the Standard Oil Co. of New Jersey?

**TESTIMONY OF R. P. RESOR, BRONXVILLE, N.Y., ASSISTANT  
TREASURER, STANDARD OIL CO., INC., NEW JERSEY**

The CHAIRMAN. You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth regarding the matters now under investigation by the committee, so help you God?

Mr. RESOR. I do.

Mr. PECORA. Will you state your full name, please?

Mr. RESOR. R. P. Resor.

Mr. PECORA. Are you connected with the Standard Oil Co. of New Jersey?

Mr. RESOR. I am assistant treasurer of the Standard Oil Co., Inc., in New Jersey, the parent company.

Mr. PECORA. That is a corporate name—the Standard Oil Co., Inc., of New Jersey?

Mr. RESOR. The corporate name is Standard Oil Co. We identify it by calling it "Incorporated in New Jersey", to show where.

Mr. PECORA. For purposes of convenience in description, I will refer to it in my examination of you as the Standard Oil Co. of New Jersey.

Mr. RESOR. There is a Standard Oil Co. of New Jersey, Mr. Pecora, that is an operating company.

Mr. PECORA. Then I will refer to it as the Standard Oil Co. Mr. Resor, who are the executive officers of the company of which you are the assistant treasurer?

Mr. RESOR. At present?



Mr. PECORA. Yes, sir.

Mr. RESOR. Mr. W. S. Farish, Mr. W. C. Teagle——

Mr. PECORA. Give their respective offices.

Mr. RESOR. W. S. Farish is chairman; W. C. Teagle, president; Mr. Christy Payne, vice president and treasurer; E. J. Sadler, vice president; Mr. C. O. Swain, general counsel.

Mr. PECORA. How long have you been assistant treasurer of the company?

Mr. RESOR. Since the latter part of 1911.

Mr. PECORA. During the year 1929 did that company make call loans to brokers in the city of New York?

Mr. RESOR. Yes, sir; by an arrangement through a broker.

Mr. PECORA. What was the name of the broker?

Mr. RESOR. Messrs. Jesup & Lamont.

Mr. PECORA. Is that broker a member of the New York Stock Exchange?

Mr. RESOR. Yes, sir.

Mr. PECORA. What was the total number of such call loans made by your company to to brokers in New York City during the year 1929?

Mr. RESOR. I cannot tell you the exact number.

Mr. PECORA. What was the name of the brokerage firm?

Mr. RESOR. Messrs. Jesup & Lamont.

Mr. PECORA. You cannot give the number of those loans made during the year 1929. Can you give the number of the borrowers?

Mr. RESOR. I could if I added these all together, but you gentlemen have the figures.

Mr. PECORA. I can perhaps simplify your examination, then, by showing you this document addressed to me as counsel to this committee under date of November 3, 1933, signed by W. C. Teagle in behalf of the company. Mr. Teagle, you said, was the president. Will you look at it and tell me if you recognize it to be a communication caused to be sent to me in behalf of your company by the president [exhibiting paper to the witness]?

Mr. RESOR. Yes.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Copy of communication, Nov. 3, 1933, Teagle to Pecora, was received in evidence, marked "Committee's Exhibit No. 89," Feb. 23, 1934, and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. The document has been marked "Committee's Exhibit No. 89" in evidence. According to this letter and the data which accompany it, the Standard Oil Co., in behalf of itself and subsidiary and affiliated companies, during the year 1929 made call loans to brokers of New York City in the following amounts. The amounts I will state represent the daily averages, by months, for the year 1929. The recapitulation shows that in January 1929, the total number of borrowers was 83, and the daily average of loans made on call was \$75,692,000.

Mr. RESOR. Right.

Mr. PECORA. In the month of February the number of borrowers was 84, and the daily average of the call loans made to them was \$72,310,000.

Mr. RESOR. Right.

Mr. PECORA. During the month of March the number of borrowers was 92, and the daily average amount of the loans was \$75,359,000.

During the month of April the number of borrowers was 102, and the daily average of the loans was \$79,736,000.

During the month of May the number of borrowers was 89, and the daily average of loans was \$76,857,000.

In the month of June the number of borrowers was 89, and the daily average of the loans was \$79,853,000.

In the month of July the number of borrowers was 91, and the daily average of the loans was \$83,838,000.

In the month of August the number of borrowers was 94, and the daily average was \$85,788,000.

In the month of September the number of borrowers was 96, and the daily average of the loans was \$86,650,000.

In the month of October the number of borrowers was 89, and the daily average of the loans was \$79,157,000.

In the month of November the number of borrowers was 25, and the daily average of the loans was \$16,372,000.

In the month of December the number of borrowers was 19, and the daily average was \$20,049,000.

The average number of borrowers per day for the entire year was 79, and the daily average of the loans for the year was \$69,304,000.

The CHAIRMAN. That was not the regular business of the corporation, was it, to make these loans?

Mr. RESOR. We have always kept surplus funds on the street in that way.

The CHAIRMAN. These were surplus funds you were loaning?

Mr. RESOR. These were surplus funds that we might need any moment in the operation of our business, and represent funds of other companies which are deposited with the parent company for their use.

The CHAIRMAN. Were these funds derived from earnings and income, or sale of stock, or what?

Mr. RESOR. Not from sales of stock—from earnings, income, and payment of bills to us.

Senator KEAN. They might be derived by a reduction in your inventory, might they not?

Mr. RESOR. Yes, somewhat.

Senator KEAN. In other words, at times you carry a very large amount of oil on hand.

Mr. RESOR. Correct.

Senator KEAN. And at other times you dispose of that oil, and therefore you have surplus funds.

Mr. RESOR. Yes. That is particularly true in the foreign business, where inventories are built up against certain seasonal demands.

Mr. PECORA. Mr. Resor, can you give the committee the aggregate amount of all these call loans that your company made during the year 1929?

Mr. RESOR. Your office called up day before yesterday and put the amount at 17 billions odd. That agrees with this figure, Mr. Pecora, but it did not mean anything to us, for the reason that if we had had one million dollars out every day of the year for the year 1929, we

would certainly not have had \$365,000,000 in the market. We would only have had one million.

Mr. PECORA. What I am trying to find out, and what our office tried to find out, was the aggregate amount of all these loans during the year 1929. We recognize the fact that that amount would not represent anything but loans made, collected and reloaned—that is, reinvestments, you might say.

Mr. RESOR. It totals something like seventeen billion.

Mr. PECORA. The total of those loans would be something over \$17,000,000,000.

Mr. RESOR. As recorded in these figures.

The CHAIRMAN. In other words, you received the interest on \$17,000,000,000?

Mr. RESOR. No.

Mr. PECORA. Oh, no.

Mr. RESOR. If you had \$1,000,000 out for the year, you would not get interest on \$365,000,000. You would get it only on \$1,000,000.

Mr. PECORA. Mr. Resor, the fact is, according to your own figures, that the average daily amount throughout the year, or, rather, the outstanding call loans, all the call loans made by your company, were \$69,304,000, approximately.

Mr. RESOR. Right.

Mr. PECORA. Do you know on what date in the year 1929 your company had outstanding the largest amount in dollars and cents of these call loans?

Mr. RESOR. September 9; \$97,824,000.

Mr. PECORA. On September 9 the peak amount was \$97,824,000; is that right?

Mr. RESOR. That is right.

Mr. PECORA. Under whose direction or supervision were those call loans made that year?

Mr. RESOR. Mine.

Mr. PECORA. Will you describe to the committee very briefly the mechanism that you used, or the procedure that you followed in the making of these call loans?

Mr. RESOR. We have for years done this business through Messrs. Jesup & Lamont. We carry but one account. We did not have during 1929 any brokers on our books except Jesup & Lamont, in a total account for all the loans. We were in close touch with them, because they are at 26 Broadway. If we had surplus funds that we did not use, we merely said, "We have two, three, or four million dollars that we can put out today." It was up to them to loan the money on the floor of the exchange or direct to themselves at times, or over the counter. It is done in three ways. When they took the money down, which they had to do before they got collateral, we gave them a check and took their receipt. Later in the day, after the delivery hour of collateral, they would give us security for the amounts covered by that day.

Mr. PECORA. Can you tell the committee whether or not the call loans made by your company during the year 1929 exceeded in amount those made in any year since you have been identified with the company in any way?

Mr. RESOR. Yes; they did.



Mr. PECORA. Did they greatly exceed those made by the company in any year?

Mr. RESOR. I should think in prior years we might loan up to \$30,000,000 to \$35,000,000.

Mr. PECORA. A day, as a daily average?

Mr. RESOR. At times, when we had surplus funds.

Mr. PECORA. But in 1929 the daily average of the loans was over \$69,000,000?

Mr. RESOR. Yes.

Mr. PECORA. Were those loans made at what were the prevailing rates of interest for call loans?

Mr. RESOR. They were made at presumably very close rates. Most of them were made at the renewal rates, which are established on the floor of the exchange. We got that, less a commission of one quarter of 1 percent. In other words, if the rate was 6 percent, we would get  $5\frac{3}{4}$ .

Mr. PECORA. You paid Jesup & Lamont a brokerage or commission for their services in placing the loans.

Mr. RESOR. They deducted that when they gave us the interest.

Mr. PECORA. Do you recall what the range of rates of interest was during the year 1929 on these call loans?

Mr. RESOR. I think one day it touched 15.

Mr. PECORA. Didn't it go beyond 15 sometime during that year?

Mr. RESOR. It may have, on loans that were made late in the afternoon, but I am speaking of the official rates as established on the stock exchange.

Mr. PECORA. What was the range? You have given us the top.

Mr. RESOR. Something between 5 and 15. I should say it ran mostly 6, 7, 8, and 9, along in there.

Mr. PECORA. Do you know, Mr. Resor, the total amount received by your company by way of interest on these call loans during that period?

Mr. RESOR. Yes, sir.

Mr. PECORA. Will you give us the figure?

Mr. RESOR. I will [producing paper].

Mr. PECORA (after examining paper). I offer in evidence the type-written statement produced by the witness in answer to the last question.

The CHAIRMAN. Let it be admitted.

(Statement entitled "Interest on Jesup & Lamont deposit account for year 1929", was received in evidence, marked "Committee's Exhibit No. 90", Feb. 23, 1934, and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. The statement has been received in evidence as committee's exhibit no. 90, and is entitled "Interest on Jesup & Lamont deposit account for year 1929." It shows the total for the year of \$4,945,217.65, divided up into months as follows: January, \$403,000. I will merely give the thousands. February, \$327,000; March, \$526,000; April, \$485,000; May, \$491,000; June, \$455,000; July, \$600,000; August, \$552,000; September, \$565,000; October, \$398,000; November, \$63,000; December, \$74,000.

Senator KEAN. I would like to ask you what average rate that makes for the money.

Mr. RESOR. About 7 percent. You remember I said the rates ran mostly around 6, 7, 8, and 9.

Senator KEAN. So, you received about 7 percent on the amount of money you were loaning on the exchange?

Mr. RESOR. Yes.

Mr. PECORA. That does not include the one quarter of 1 percent which the broker, Jesup & Lamont, received out of the interest paid by the borrower?

Mr. RESOR. That is right. This is net.

Mr. PECORA. That is net to your company?

Mr. RESOR. Yes.

Mr. PECORA. Did the broker receive more than a quarter of 1 percent?

Mr. RESOR. Never.

Mr. PECORA. On what securities exchange is the stock of your company listed?

Mr. RESOR. The New York Stock Exchange.

Mr. PECORA. Do you know what the total number of common shares issued and outstanding in the year 1929 was?

Mr. RESOR. It possibly was 23 million or 24 million—[after conferring with an associate]—from 25 to 25½ million.

Mr. PECORA. Do you know the total amount of trading in the market in the common stock of your company in 1929?

Mr. RESOR. No; I would not have that figure.

Mr. PECORA. You gave the number of shares?

Mr. RESOR. Twenty-five million shares, approximately.

Mr. PECORA. According to exhibit no. 89 in evidence, which is the return to the questionnaire we addressed to your company, the total number of shares of the capital stock of your company transferred on the books during the year 1929 was 16,828,779.

Mr. RESOR. That is according to the letter.

Mr. PECORA. And the total number of transfers of that stock during the year 1929, made on the books, was 238,770; that is, where stock was transferred from one ownership to another on the books.

Mr. RESOR. Right. I want to call your attention to that paragraph, however, Mr. Pecora, in the split-up of stock, which is very important, and which illustrates that that 16,000,000 shares is very excessive, because in the split-up of stock we have given the total number of transfers, whereas a great many of them were not, in effect, transfers to another name, but merely a split-up of the certificates.

Mr. PECORA. That is part of the record here, because this entire document has been put in evidence, Mr. Resor. I have not read the entire document because of its length.

The CHAIRMAN. Is the stock listed on the New York Stock Exchange?

Mr. RESOR. Yes, sir.

The CHAIRMAN. Are the shares widely distributed or concentrated?

Mr. RESOR. Very widely distributed.

Senator KEAN. How many stockholders have you?

Mr. RESOR. I could not say at the present time, Senator.

Senator KEAN. I think it would be important to know.

Mr. SWAIN. It is in excess of 150,000.

Mr. PECORA. You can give the figure approximately, Mr. Resor.

Mr. RESOR. The last I knew was about 140,000. Mr. Swain is probably more nearly correct.

Mr. SWAIN. Can we use the number as of the last day of record?

Mr. PECORA. Yes; and if you have in your files or among your records the total amount of trading for the year 1929, we would like to have that.

Mr. SWAIN. We have not that.

Mr. PECORA. We can get that from the stock exchange statistical records.

Mr. SWAIN. I will see if we have that.

Mr. RESOR. Mr. Pecora, that figure is the total as given by the manuals. We can get it for you in any of the newspapers, if you wish it. You want the actual number of shares outstanding?

Mr. PECORA. In the year 1929.

Mr. RESOR. And at present?

Mr. PECORA. And at present; and the amount of trading, the number of shares traded in on the exchange during the year 1929.

Mr. RESOR. And the number of stockholders.

Mr. PECORA. Yes.

The CHAIRMAN. What is the par value of the stock?

Mr. RESOR. Twenty-five dollars at the present time.

Mr. PECORA. Can you tell the committee, Mr. Resor, the factors and circumstances that led to such very heavy borrowings by brokers in the year 1929, or at least up to the end of October of that year?

Mr. RESOR. I can tell you why we loaned so much money; because there was a demand for it at excessively high rates, over and above what we could get from what we would normally invest in, which are Government securities, municipals, and things of that sort.

Mr. PECORA. What caused that great demand?

Mr. RESOR. Speculation in the stock market, of course.

Mr. PECORA. Without the furnishing of credit in the form of these call loans, not only by banks, but by nonbanking corporations and individuals, could that speculation have been sustained?

Mr. RESOR. Personally I think so, Mr. Pecora. I have been loaning money in this way for over 20 years, and if it had not been coming from us, our money would have been in the banks; the money we put into securities would have gone back to the sources where that money comes from, and it would have been secured in just the same way. I do not believe the volume of it would have been decreased if we had not loaned it on the market.

Mr. PECORA. Could that excessive speculation have been maintained without the credits extended to brokers, represented by call loans?

Mr. RESOR. No; I doubt it. The point I wanted to make is that I believe if the demand is there, the money will be forthcoming. The money was not there first, to make the demand.

Senator KEAN. I would like to ask a question, if I may, Mr. Chairman. If the money had not come from you, and had not come from the United States, there are other money markets in the world that were sending money into the market to loan, isn't that true?

Mr. RESOR. Absolutely. Foreign funds that were here, Senator, were enormous, of course.

The CHAIRMAN. If the banks had been making the loans, they would have been loaning depositors' money.



Mr. RESOR. That is what they loan in every case.

Mr. PECORA. I think that is all of this witness. Have you any statement you would like to make to the committee, or information to convey to the committee, without being questioned?

Mr. RESOR. I would like just to make this plain, Mr. Pecora. I came to New York in 1908, and we were loaning money then. Probably it had been the practice of the company for years before that. We are loaning it today, and that is a practice not because of the speculation that brought more money in 1929 out into the market, but it is our practice to always keep a large line of call money out so that we can have it any minute we want it.

The CHAIRMAN. How is the demand today?

Mr. RESOR. It is not so high.

Mr. PECORA. It is not nearly so high.

Mr. RESOR. I have no objection to telling you that we have only about \$11,000,000 out today.

Mr. PECORA. As compared with a daily average of \$69,000,000 in 1929.

The CHAIRMAN. What interest do you get today?

Mr. RESOR. One percent, less commission, and sometimes less.

The CHAIRMAN. It was the higher interest that made these loans attractive to you at that time?

Mr. RESOR. But, Senator, we keep it out at the low rates, as I say, because it is just a matter of principle to us, to have money available when we can get it at any minute.

Mr. PECORA. I think that is all of this witness.

The CHAIRMAN. You may be excused.

(Witness excused.)

Mr. PECORA. There are other witnesses, Mr. Chairman, but the usual hour of recess has arrived. I suggest that we take a recess at this time.

The CHAIRMAN. The committee will now take a recess until 2 o'clock.

(Whereupon, at 1 p.m., Friday, Feb. 23, 1934, a recess was taken until 2 p.m., of the same day.)

#### AFTERNOON SESSION

The committee resumed at 2 p.m. at the expiration of the recess.

The CHAIRMAN. The committee will please come to order.

Mr. PECORA. Mr. Sinclair.

Mr. SINCLAIR. Do you wish me to be sworn?

Mr. PECORA. No; you have heretofore been sworn and are now being recalled.

#### TESTIMONY OF HARRY F. SINCLAIR, GREAT NECK, LONG ISLAND, N.Y., CHAIRMAN OF THE EXECUTIVE COMMITTEE OF CONSOLIDATED OIL CORPORATION, NEW YORK CITY—Resumed

Mr. PECORA. Mr. Sinclair, you have heretofore testified before this committee, and in connection with the testimony then given by you it appeared that you were connected with a corporation known as the Consolidated Oil Corporation, I believe.

Mr. SINCLAIR. Yes, sir.

Mr. PECORA. Now, during the year 1929 what was the corporate name of that corporation?

Mr. SINCLAIR. Sinclair Consolidated Oil Corporation.

Mr. PECORA. You were connected with that corporation that year, were you?

Mr. SINCLAIR. Yes, sir.

Mr. PECORA. In what capacity?

Mr. SINCLAIR. Chairman of the board.

Mr. PECORA. Now, in the year 1929 did the Sinclair Consolidated Oil Corporation make call loans to brokers in New York City?

Mr. SINCLAIR. They did.

Mr. PECORA. Did the Corporation make such loans generally throughout that year?

Mr. SINCLAIR. They did.

Mr. PECORA. I show you what purports to be a statement in writing signed by Mr. G. T. Stanford, general counsel of the Consolidated Oil Corporation, entitled:

Questionnaire propounded by the Honorable Ferdinand Pecora, Counsel to the Committee on Banking and Currency, to Consolidated Oil Corporation, and answers thereto by said Corporation.

Will you look at it, Mr. Sinclair, and tell me if you can identify it as a correct statement or answers to the questions propounded in this questionnaire, that was submitted to your corporation?

Mr. SINCLAIR (after looking at the papers). I do.

Mr. PECORA. Mr. Chairman, I now offer these papers in evidence.

The CHAIRMAN. Let them be admitted.

(The answers made by the Consolidated Oil Corporation to the questionnaire sent by the committee, marked "Committee Exhibit No. 91, February 23, 1934", will be found at the end of the day's proceedings.)

Mr. PECORA. The document has been received as committee exhibit no. 91 of this date and will be spread in full on the record of the hearings. I want to point out that, according to this exhibit, and the schedule attached thereto and forming a part thereof, the Sinclair Consolidated Oil Corporation, as it was called during the year 1929, and its affiliated and subsidiary corporations named therein, made call loans during the year 1929 aggregating in amount \$211,000,000. Those loans were made through various commercial banks, the names of which are set forth in this exhibit or the schedule annexed to it and made a part thereof; and that such loans were made in behalf of and by the Sinclair Consolidated Oil Corporation, Sinclair Automobile Service Corporation, Sinclair Pipe Line Co., Sinclair Crude Oil Purchasing Co., and the Venezuelan Petroleum Co.

Now, Mr. Sinclair, do you know the highest amount of such call loans outstanding on any one day during that year that were made by or on behalf of those corporations?

Mr. SINCLAIR. On October 9, \$17,600,000.

Mr. PECORA. What was the daily average amount of those loans made by your companies during the year 1929?

Mr. SINCLAIR. It was \$12,595,636.

Mr. PECORA. Were they made at the call-money rates that were prevailing at the time?

Mr. SINCLAIR. Presumably so.

Mr. PECORA. Are you familiar with the mechanism or procedure by which your companies made those call loans during that year?

Mr. SINCLAIR. The loans were made through our banking connections for us.

Mr. PECORA. Had it been the custom or a part of the business of your companies to make such call loans generally for any period of time prior to 1929?

Mr. SINCLAIR. Yes. We made call loans in 1928, and I do not recall the other years.

Mr. PECORA. Have your companies made such call loans since 1929?

Mr. SINCLAIR. Yes, sir.

Mr. PECORA. What would you say was the amount of those loans made by your companies during the year 1929, as to this point: Did they far exceed any amount of similar loans made in any other year?

Mr. SINCLAIR. Yes, sir.

Mr. PECORA. And what was that due to?

Mr. SINCLAIR. I would say partly on account of interest rates and partly on account of demand. And also the fact that, perhaps, our corporation did not have funds at other times.

Mr. PECORA. During the year 1929, as you recall it, would you say that the amount of speculation in securities far exceeded that which was witnessed in any other year in recent times, or, say, within as much as a decade or two?

Mr. SINCLAIR. I think so.

Mr. PECORA. This paper, which is committee exhibit no. 91, also states that as of June 15, 1929, there were outstanding 3 563,502 shares of the common capital stock of the Sinclair Consolidated Oil Corporation, and that certificates representing 2,891,805 of those shares were on that date outstanding in the names of brokers or brokerage firms. That is correct, isn't it, Mr. Sinclair?

Mr. SINCLAIR. Yes, sir; I think so.

Mr. PECORA. The questionnaire addressed to your firm in behalf of this committee asked, among other things, for the following information:

1. The total number of shares of the common stock of your corporation transferred on your books from one ownership to another.

Can you give us that figure, Mr. Sinclair?

Mr. SINCLAIR. Yes. It is 8,910,126.

Mr. PECORA. No. That is the total number of shares transferred on the books. But what was the total number of transfers.

Mr. SINCLAIR. We do not have that information here, Mr. Pecora.

Mr. PECORA. But the total number of shares of common stock transferred on the books during the calendar year 1929 was 8,910,126.

Mr. SINCLAIR. Yes, sir.

Mr. PECORA. About two and a half times the total amount of common stock outstanding.

Mr. SINCLAIR. I think so.

Mr. PECORA. Do you know the total amount of trading that was done in the market in the common stock of the company during the year 1929?

Mr. SINCLAIR. I do not.

Mr. PECORA. Have you any figures that would give us that information?



Mr. SINCLAIR. I have not.

Mr. PECORA. On what securities exchange was the common stock listed at that time?

Mr. SINCLAIR. The New York Stock Exchange.

Mr. PECORA. Can you get the figure showing the total amount traded in as to that stock for that year?

Mr. SINCLAIR. I think so.

Mr. PECORA. Will you send it to our office in New York?

Mr. SINCLAIR. All right.

Mr. PECORA. Can you give this committee now the total amount received by these companies affiliated with the Sinclair Consolidated Oil Corporation, and by that corporation itself, in the year 1929 by way of interest on those call loans?

Mr. SINCLAIR. We have the information for all of our companies except the Crude Oil Purchasing Co. and the Sinclair Pipe Line Co., whose books are in Tulsa, Okla., and we did not have time to get it for them.

Mr. PECORA. Will you give us the figures so far as you are in position to do it now?

Mr. SINCLAIR. The figures show \$833,593.24.

Mr. PECORA. That is exclusive of interest paid to these other two companies?

Mr. SINCLAIR. Yes, sir.

Mr. PECORA. That is all that I want of Mr. Sinclair, Mr. Chairman.

The CHAIRMAN. Then you are excused, Mr. Sinclair.

Mr. PECORA. Mr. Sinclair, is there anything that you would like to give to the committee on the subject of these call loans at this time without being specifically questioned thereon?

Mr. SINCLAIR. I believe not.

Mr. PECORA. All right. That is all.

The CHAIRMAN. That is all, Mr. Sinclair, and you are excused.

Mr. SINCLAIR. I thank you, gentlemen.

(Thereupon the witness was excused.)

Mr. PECORA. Now, Mr. Chairman, there were sent questionnaires similar in form to those which have been put in evidence here today, to various other nonbanking corporations. The questionnaire called for information concerning call loans made by the corporations to which they were addressed, during the year 1929, and for certain details with respect to such call loans. We have here the answers made to those questionnaires, which I will put in evidence. But before proceeding directly to put these documents in evidence, I want to offer in evidence a recapitulation of the information conveyed in those questionnaires with respect to Street loans made by these corporations during the year 1929 in the call-money market of New York City. This recapitulation has been prepared from the information embodied in the questionnaires, by members of the investigating staff of the committee, and I believe they will be found to be accurate.

The CHAIRMAN. The statement will be admitted in evidence.

(The recapitulation made by members of the investigating staff of the committee, entitled "Total number and amount of Street loans made by private corporations for the year 1929 in the call money market of New York City", was marked "Committee Exhibit No.

92, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. Mr. Chairman, the corporations referred to in this recapitulation, which has been marked in evidence "Committee Exhibit 92", are as follows:

American Founders Corporation and subsidiaries; American & Foreign Power Co., Inc., and subsidiaries; American Can Co.; Anaconda Copper Mining Co.; Auburn Automobile Co.; Bethlehem Steel Corporation and subsidiaries, Chrysler Corporation; Cities Service Co.; Consolidated Oil Corporation; Electric Bond & Share Co. and subsidiaries; General Foods Corporation; General Motors Corporation; International Nickel Co., Inc.; Pan American Petroleum & Transport Co.; Radio Corporation of America and subsidiaries; Radio-Keith-Orpheum Corporation; Standard Oil Co. of New Jersey and subsidiaries; Tri-Continental Corporation and affiliated corporations; the United Corporation; the United Gas & Improvement Co. and subsidiaries.

Mr. Chairman, I now offer in evidence and ask to have spread on the record, the answers to the questionnaires submitted to the corporations which I have named, in behalf of this committee, and which give details with regard not only to call loans made in the year 1929 by such corporations, but also give detailed information with respect to the number of shares listed of the capital stock of such companies that were transferred on the books of the companies, respectively, during the calendar year 1929.

The first answer to the questionnaire is that of the American Can Co., which shows a total amount of call loans in 1929 of \$149,000,000, with an average amount outstanding of \$9,424,000, and with the total number of call loans made, 374. The maximum amount outstanding at any one time was \$16,000,000, which was for a period of 8 days, January 17 to January 25, 1929.

The CHAIRMAN. Let it be admitted.

(The answer of the American Can Co. to the committee's questionnaire was marked "Committee Exhibit No. 93, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. Mr. Chairman, the next one is the return to the questionnaire made by the Anaconda Copper Mining Co.; and it shows the total amount of Street loans made in the call money market of New York City was \$32,500,000, and that the total number of Street loans made by the corporation was 147.

The CHAIRMAN. Let it be admitted.

(The answer made by the Anaconda Copper Mining Co. to the committee's questionnaire was marked "Committee Exhibit No. 94, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the answer made by the Auburn Automobile Co., and it shows that the total number of Street loans made was 13, and that the total amount was \$1,600,000.

The CHAIRMAN. Let it be admitted.

(The answer by the Auburn Automobile Co. to the committee's questionnaire was marked "Committee Exhibit No. 95, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next return made is in behalf of the Bethlehem Steel Corporation, and, Mr. Chairman, I might call attention to the fact that in this return to our questionnaire, the Bethlehem Steel Corporation stated that the peak amount of call loans out-

standing at any one time in the year 1929 was \$157,450,000, and that the total number of loans made was 517.

The CHAIRMAN. Let it be admitted.

(The answer by the Bethlehem Steel Corporation to the committee's questionnaire was marked "Committee Exhibit No. 96, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return to our questionnaire made in behalf of the Chrysler Corporation, showing that the loans were made through three banks, and that the largest amount made through the first bank was on September 26, when there were 114 loans amounting to \$60,150,000; the largest amount through the second bank was on October 9, when there were 26 loans amounting to \$15,000,000; and the largest amount through the third bank was on October 28, when there were 33 loans, amounting to \$15,400,000.

The CHAIRMAN. Let it be admitted.

(The answer by the Chrysler Corporation to the committee's questionnaire was marked "Committee Exhibit No. 97, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return to our questionnaire made in behalf of the General Foods Corporation, which states that the loans were all made through banks, and that the total number was 187; that the total amount of Street loans made by the corporation in the call-money market of New York in 1929 was \$36,000,000.

The CHAIRMAN. Let it be admitted.

(The answer of the General Foods Corporation to the committee's questionnaire was marked "Committee Exhibit No. 98, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return made in behalf of General Motors Corporation and subsidiaries, in the year 1929, and shows a total of \$103,700,000, and the General Motors Truck Corporation made four loans for a total of \$2,000,000.

The CHAIRMAN. Let it be admitted.

(The answer of the General Motors Corporation and subsidiaries to the committee's questionnaire was marked "Committee Exhibit No. 99, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return to the questionnaire made in behalf of the International Nickel Co. of Canada, Ltd., and shows for the year 1929 they made 14 Street loans in the call-money market of New York City for a total of \$3,000,000.

The CHAIRMAN. Let it be admitted.

(The return made by the International Nickel Co. of Canada, Ltd., to the committee's questionnaire was marked "Committee Exhibit No. 100, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return to the questionnaire made in behalf of the Pan American Petroleum & Transport Co., which shows a total of \$9,500,000.

The CHAIRMAN. Let it be admitted.

(The return made by the Pan American Petroleum & Transport Co. to the committee's questionnaire was marked "Committee Exhibit No. 101, Feb. 23, 1934", and will be found at the end of the day's proceedings.)



Mr. PECORA. The next one is the return made in behalf of the Radio Corporation of America and subsidiaries, and shows that loans were made through three banks in New York City for a total of \$18,600,000.

The CHAIRMAN. Let it be admitted.

(Return made by the Radio Corporation of America to the committee's questionnaire was marked "Committee Exhibit No. 102, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return made in behalf of the Radio-Keith-Orpheum Corporation, and states that the largest amount invested in the call-money market by that corporation and its subsidiaries and affiliates was in March of 1929, when \$8,000,000 was so invested.

The CHAIRMAN. Let it be admitted.

(The answer submitted by the Radio-Keith-Orpheum Corporation to the committee's questionnaire was marked "Committee's Exhibit No. 103, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return made in behalf of the Tri-Continental Corporation showing an aggregate of call loans made \$86,525,000.

The CHAIRMAN. Let it be admitted.

(The return made by the Tri-Continental Corporation to the committee's questionnaire was marked "Committee's Exhibit No. 104, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return made in behalf of the United Corporation, which states that it did not make directly any Street loans in the call-money market of New York City during the year 1929, but that on January 25, 1929, the United Corporation obtained an interest through J. P. Morgan & Co. to the extent of \$7,400,000 in six such loans.

The CHAIRMAN. Let it be admitted.

(The answer made by the United Corporation to the committee's questionnaire was marked "Committee Exhibit No. 105, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. The next one is the return made by the United Gas Improvement Co. and subsidiaries, and states that the maximum amount loaned by way of Street loans at any one time was \$3,600,000.

The CHAIRMAN. Let it be admitted.

(The answer made by the United Gas Improvement Co. to the committee's questionnaire was marked "Committee Exhibit No. 106, Feb. 23, 1934", and will be found at the end of the day's proceedings.)

The CHAIRMAN. May I ask you, Mr. Pecora, if those are what are known as "bootleg" loans, or if they represent what are called "bootleg" loans.

Mr. PECORA. Mr. Chairman, they have often been called "bootleg" loans, not only in the parlance of the Street, but I think some text-book writers have referred to brokers' loans as "bootleg" loans as distinguished from loans made by banks.

I have in mind in that respect a reference to such loans as "bootleg" loans, which will be found in a book called "Brokers' Loans", written by Profs. Louis H. Haney, Lyman S. Logan, and Henry S. Gavens, of New York University. And some observations with regard to these so-called "bootleg" loans made by these authors in that book, might not be out of place at this time, Mr. Chairman, and if you wish I will read a few statements culled from that book.

The CHAIRMAN. All right. I think they might be in order now so as to give us a clearer idea of that.

Mr. PECORA. Quoting from this book I will read as follows:

The so-called "bootleg" loans.

One of the most important problems connected with brokers' loans is found in that part of such loans which comes from the nonbanking lenders or "others." Such loans have been a disturbing factor and in 1929 developed to extraordinary proportions. It is estimated that at times they constitute a large part of the loans made for the account of out-of-town banks and were probably over one half of the out-of-town bank loans in the fall of 1929.

Loans by "others" swell to enormous proportions in periods of speculative mania. They are drawn largely from the surplus funds of corporations built up out of past earnings or sales of securities; from funds secured by new investors through far-sighted liquidation of securities; and from foreign sources.

But probably considerable Reserve bank credit is diverted into brokers' loans reported as being made by "others", as a result of the inability of the authorities to control the use of credit extended through the rediscount privilege.

When large corporation surpluses exist as in 1928 and 1929, and low yields on securities both invite the sale of stock and retard investment in plant and equipment, the existence of high call loan rates is bound to cause a strong trend toward a large volume of brokers' loans by "others."

These loans, having been subject to little control were long a source of great danger. Not only did they deprive industry and trade of funds at reasonable rates, but they threw fuel on the speculative fire. There comes a time when, the private lenders not having the responsibility of banks, are apt to become panicky and withdraw loans suddenly, thus precipitating a crisis. The experience of 1929 but repeats that of 1907 and other similar periods.

The essence of the situation in this respect is inflation. The higher stocks go and the larger the volume of trading by speculators, the greater the demand for brokers' loans and the higher money rates. There is no limit to the speculative appetite. To argue that loans by "others" relieve the situation by furnishing credit which the banks would otherwise have to supply seems futile. It assumes that such credit should be furnished—that it is desirable and connected with a sound condition. This begs the question. It is not a service to throw fuel on a dangerous fire.

Nor do such loans by "others" represent a mere shifting of credit without any disturbance of the relation between deposits and loans. We find in 1928-29 declining deposits and an abnormal volume of loans, largely brokers' loans made for the account of "others."

As to the argument that these loans by "others" are part of a means which enables corporations to raise capital, it hardly seems that a refutation is needed since our experience in 1929-30. They have been proved to have become but a link in an endless chain of inflation whereby funds were raised which were used not for investment, but to allow speculative purchases of stocks, and were then re-lent to allow speculative purchases of more stock.

The fact is that when speculative funds become relatively so scarce that money rates are bid up to 6, 8, 10, 12, or even 15 percent, the funds supplied by "others" become a causal factor in promoting excessive speculation and preventing effective credit control by the central banking system.

Desirability of control.

Loans by nonbanking lenders on a large scale were a new phenomenon in 1928-29. They were called "bootleg loans" and were widely attacked because they were feared and their economic significance not understood. It was

argued that they had an unfavorable effect upon our economic structure because:

1. They took away money from "legitimate business."
2. They brought on the inflation in stocks.
3. If the lenders became frightened by some economic disturbance and withdrew them, a grave panic would follow.
4. They were a liability on the banking system, for banks must be prepared to supplant them in case they should be withdrawn suddenly.
5. They were dangerous because the lenders were not generally competent to function in this field.
6. They were not controlled by banks and were usurping a field not properly belonging to them.

On the other hand, there were many economists who defended every aspect of brokers' loans and denied that they had any unfavorable effect on our economic structure.

Although it is fair to point out that originally such loans were a result of the speculative situation, and that in some cases the lenders had no other equally good outlet for their funds, it is our conclusion that they did become part of a vicious circle in stock-market inflation, and that subsequent events justified much of the fear concerning the rapid withdrawal of funds supplied by irresponsible lenders, with a resulting great burden thrown upon the banks.

The chief point, however, is to prevent the development of the excessive speculation and the runaway stock and money markets which make the occasion for a large volume of loans to brokers by nonbanking lenders.

In late 1929, when the market declined, nonbanking and out-of-town lenders hastily withdrew their funds, forcing the New York banks to expand their loans to brokers in order to prevent an utter credit debacle.

It is to be remembered, however, that even if the loans others called were placed on deposit in New York City as was true only in part, their withdrawal from brokers tending to aggravate the situation, in that for every \$100,000 which a nonbanking lender called, the banks could return only \$87,000, since they have to keep about 13 percent of their deposits as a reserve.

However, it does seem that when corporations withhold accumulated surplus funds instead of paying them out as dividends, or sell new stock in order to make loans in the call-money market and thereby to some extent make it possible for speculators to carry that very stock, they tend to overstep the boundaries of normality.

I think, Mr. Chairman, those statements are very pertinent and are supported very largely by testimony that has been presented here today with regard to these call loans.

Senator KEAN. Where did those statements come from?

Mr. PECORA. A book written by professors of New York University, Professors Haney, Logan, and Gavens, a book called "Brokers' Loans."

Among the returns I want to offer in evidence are two of them made on behalf of the American Founders Corporation, the first one dated November 6, 1933, and the second one dated February 21, 1934.

The CHAIRMAN. Let them be admitted.

(Return to questionnaire, dated Nov. 6, 1933, from L. H. Seagrave, president American Founders Corporation, to Ferdinand Pecora, counsel, Committee on Banking and Currency, and supplemental return from L. H. Seagrave to Ferdinand Pecora, dated Feb. 21, 1934, were marked as one exhibit "Committee Exhibit No. 107, Feb. 23, 1934", and they appear in full in the record at the end of today's proceedings.)

Mr. PECORA. Is Mr. George U. Harris here?



**TESTIMONY OF GEORGE U. HARRIS, MEMBER BROKERAGE FIRM  
HARRIS, UPHAM & CO., AND MEMBER PUBLICITY COMMITTEE  
NEW YORK STOCK EXCHANGE**

The CHAIRMAN. You may come forward, Mr. Harris, and be sworn. You do solemnly swear that the testimony you are about to give in regard to the matters now under investigation by this committee will be the truth, the whole truth, and nothing but the truth. So help you, God.

Mr. HARRIS. I do.

Mr. PECORA. Will you give your full name, Mr. Harris, and your address and business?

Mr. HARRIS. George U. Harris, 11 Wall Street.

Mr. PECORA. And what is your business?

Mr. HARRIS. I am a member of the New York Stock Exchange, brokerage business.

Mr. PECORA. Are you connected with any firms?

Mr. HARRIS. Connected with the firm of Harris, Upham & Co.

Mr. PECORA. And how long have you been connected with that firm, Mr. Harris?

Mr. HARRIS. Seven years.

Mr. PECORA. And how long have you been a member of the New York Stock Exchange?

Mr. HARRIS. Seven years.

Mr. PECORA. Are you an officer of that exchange at the present time?

Mr. HARRIS. No, sir; I am not an officer.

Mr. PECORA. Are you a member of the board of governors of that exchange?

Mr. HARRIS. I am.

Mr. PECORA. How long have you been a member of its board of governors?

Mr. HARRIS. Approximately 5 years.

Mr. PECORA. Are you a member of any of the committees of the exchange, any of its standing or special committees?

Mr. HARRIS. Yes, sir; I am.

Mr. PECORA. Of what committee or committees are you a member?

Mr. HARRIS. Business conduct committee, the committee on publicity.

Mr. PECORA. How long have you been a member of the committee on business conduct?

Mr. HARRIS. Approximately 4 years.

Mr. PECORA. And how long have you been a member of its committee on publicity?

Mr. HARRIS. Approximately 4 years.

Mr. PECORA. Are you the chairman of the last named committee?

Mr. HARRIS. No, sir; I am not.

Mr. PECORA. Who is the chairman of that committee?

Mr. HARRIS. Mr. James Auchincloss.

The CHAIRMAN. What is your age, Mr. Harris?

Mr. HARRIS. Thirty-six.

Mr. PECORA. What are the functions of the committee on publicity of the New York Stock Exchange, Mr. Harris?

Mr. HARRIS. They pertain to statistical matter mostly that is gotten out by the stock exchange in its various functions.

Mr. PECORA. Well, statistical matter relating to what?

Mr. HARRIS. Volume of transactions and general questions of how the business is conducted on the floor of the exchange.

Mr. PECORA. Do you happen to have with you at the present time copy of the constitution, bylaws, rules, and regulations of the New York Stock Exchange now in force and effect?

Mr. REDMOND. No; we haven't a copy, Mr. Pecora.

Mr. PECORA. I think I have a copy here.

Mr. REDMOND. You are looking for the committee on publicity?

Mr. PECORA. Yes.

Mr. REDMOND. I can turn right to it.

(Mr. Redmond turned to desired place in book.)

Mr. PECORA. I have before me what purports to be a copy of the constitution of the New York Stock Exchange and rules added by the governing committee of that institution pursuant to the constitution, with amendments to October 10, 1933, and there have also been inserted in this volume changes down to and including January 24, 1934.

Will you look at it, Mr. Harris, and tell me if you can identify it as being a copy of the constitution of the New York Stock Exchange with such rules as adopted by the governing committee and changes made therein down to and including January 24 of this year?

Mr. HARRIS (after examining document). Yes; that is a correct copy.

Mr. PECORA. I ask that it be marked for identification.

(Constitution, rules, together with amendments thereto, of the New York Stock Exchange was thereupon marked for identification "Committee Exhibit No. 108 for Identification, February 23, 1934", and the same is filed among the records of the committee.)

Mr. PECORA. On page 23 of this exhibit no. 108 let me read the following paragraph marked "paragraph 9, article 10, of the Constitution of the New York Stock Exchange", which reads as follows [reading]:

Committee of five to be known as the committee on publicity:

It shall be the duty of this committee, under the direction of the president, to keep the public correctly informed concerning matters of public interest having to do with the exchange.

Now, the committee on publicity that is referred to there is the committee of which you are now a member and have been a member for the past 4 years?

Mr. HARRIS. Approximately; yes, sir.

Mr. PECORA. And according to the powers, duties, and functions of the committee as contained in this paragraph ninth of article 10 of the constitution of the exchange, the duty of the committee is "to keep the public correctly informed concerning matters of public interest having to do with the exchange."

Do you know of any other power, duty, or responsibility that might not be comprehended within that language that is conferred upon or exercised by the committee on publicity?

Mr. HARRIS. No; I know of no other; no, sir.

Mr. PECORA. How often does the committee on publicity meet?

Mr. HARRIS. There is no regular time for its meeting. At intervals when something that is of importance to that committee comes up a meeting is called. It has no other regular dates.

Mr. PECORA. It has no regular stated times for holding meetings?

Mr. HARRIS. None.

Mr. PECORA. Its meetings are held upon the call of somebody?

Mr. HARRIS. Upon the call of the chairman.

Mr. PECORA. And is the president of the exchange ex officio a member of the committee?

Mr. HARRIS. He is.

Mr. PECORA. Are there any other officers of the exchange who are ex officio members of the committee?

Mr. HARRIS. There are not any.

The CHAIRMAN. How many members are there?

Mr. HARRIS. Five.

Mr. PECORA. The chairman is James Auchincloss?

Mr. HARRIS. Yes.

Mr. PECORA. How are the members of the committee on publicity chosen?

Mr. HARRIS. They are appointed by the president.

Mr. PECORA. Is that true generally of the membership of all the standing committees of the stock exchange?

Mr. HARRIS. That is true of all the committees, standing committees.

Mr. PECORA. Now, can you tell this committee how many meetings have been held by the committee on publicity since the first of this year?

Mr. HARRIS. I believe there has only been one meeting.

Mr. PECORA. How long ago was that held?

Mr. HARRIS. Day before yesterday.

Mr. PECORA. At whose instance was that called?

Mr. HARRIS. At the instance of the chairman.

Mr. PECORA. Did you attend that meeting?

Mr. HARRIS. I did.

Mr. PECORA. Are minutes kept of the meetings of the committee on publicity when such meetings are held?

Mr. HARRIS. Complete minutes are kept.

Mr. PECORA. When was the meeting immediately prior to the one that was held the day before yesterday?

Mr. HARRIS. Mr. Pecora, I am not absolutely certain, but I would say some 6 weeks ago. There may possibly have been another meeting since the first of the year, but at the moment it does not come to my recollection.

Mr. PECORA. If you can give it to us by access or reference to any records, I prefer that you do so; but if you have no such records, tell us from your general recollection how many meetings of the committee on publicity were held during the calendar year 1933.

Mr. HARRIS. I cannot even make an estimate as to that. I have no recollection of it.

Mr. PECORA. Can't you tell us from general recollection?

Mr. HARRIS. Well, a rough estimate would be maybe 12.

Mr. PECORA. Do you happen to have the minute book of the meetings of the committee on publicity with you?



Mr. HARRIS. No, sir; I have not.

Mr. REDMOND. Mr. Pecora, I might say that while the subpoena covered all documents and papers, et cetera, Mr. Harris was not informed as to what papers you wanted, and inasmuch as the rest of the question referred to answers in regard to the publicity committee, he came down to Washington simply with the answers to that questionnaire. He had no notice of any other documents that you wanted.

The CHAIRMAN. Let the record show who is speaking.

Mr. PECORA. Mr. Roland Redmond, who has heretofore appeared before the committee. And I think you were sworn.

Mr. REDMOND. Twice.

Mr. HARRIS. Of course, Mr. Pecora, I will be glad to furnish any records that the committee desire.

Mr. PECORA. Yes; I understand. Now, can you tell this committee in a general way what the activities were of the committee on publicity by way of keeping the public correctly informed during the past year concerning matters of public interest having to do with the exchange?

Mr. HARRIS. They have been purely routine and the same as ever since I have been connected with the committee. That is, sending out a certain number of pamphlets, showing people through the exchange through the medium of the gallery, sending various documents to educational institutions.

Mr. PECORA. That is all routine work?

Mr. HARRIS. Yes.

Mr. PECORA. To what extent or to what number were pamphlets sent out during the calendar year 1933, if you can tell us?

Mr. HARRIS. Yes; I think I have that right here. For the year 1933?

Mr. PECORA. Yes, sir.

Mr. HARRIS. We have it only up to October 1. There were three different pamphlets sent and 55,000 copies.

Mr. PECORA. Fifty-five thousand copies of each of these three pamphlets?

Mr. HARRIS. No; that is the total number of copies.

Mr. PECORA. Oh, of all three?

Mr. HARRIS. Of all three.

Mr. PECORA. And to whom were they sent, to what classes of persons?

Mr. HARRIS. Well, it is the usual mailing list, primarily educational institutions.

Mr. PECORA. Are there that many in the country—55,000?

Mr. HARRIS. Of course, members and brokers are included in that list.

Mr. PECORA. There are 1,375 members?

Mr. HARRIS. Yes.

Mr. PECORA. That still leaves a very, very large number.

Mr. HARRIS. Yes; but each member would probably desire a great many copies.

Mr. PECORA. What was the nature and title of the three pamphlets sent out in the year 1933?

Mr. HARRIS. The titles were as follows: Writing Down Assets and Writing off Losses; Security Investors and The Future; Statement of Richard Whitney, President.

Mr. PECORA. During the year 1932 did the exchange under the direction of its committee on publicity distribute any large number of printed pamphlets?

Mr. HARRIS. Yes, sir; they distributed six pamphlets to their regular mailing list, with a total number of copies of 260,000.

Mr. PECORA. What were the titles of those six pamphlets, Mr. Harris?

Mr. HARRIS. Statement of Richard Whitney, President; Statement of Richard Whitney, President, Two; Statement of Richard Whitney, President, Three; The New York Stock Exchange; Report of the President; New York Stock Exchange Year Book. Those are the six pamphlets.

Mr. PECORA. During the calendar year 1931 did the exchange distribute any printed pamphlets under the direction of the committee on publicity?

Mr. HARRIS. Yes, sir; they distributed 12, with a total of 2,250,000 copies.

Mr. PECORA. And what were the titles of those 12 pamphlets?

Mr. HARRIS. Titles were as follows: Place of the Stock Exchange in American Business; Measuring the Stock Market; Public Opinion and the Stock Market; Business Honesty; Statement on Investment Trusts, Management Type; Special Requirements for Listing Investment Trust Securities and Report of the President; Economic Law and Business; The Stock Exchange on Investment Trusts; Short Selling; Short Selling and Liquidation; Statistics in Regard to Short Selling; New York Stock Exchange Year Book.

Mr. PECORA. I notice the tremendous number of copies of those 12 pamphlets that were distributed by the exchange in the year 1931 as being 2,250,000, compared with distribution of 55,000 copies in the aggregate of pamphlets sent out in the year 1933 to October 1. Was there any special reason, Mr. Harris, why the committee deemed it necessary or advisable or expedient to send out 2¼ million copies of 12 different printed pamphlets in the year 1931?

Mr. HARRIS. Yes, sir. There were two pamphlets sent out for which there was a great demand from the public.

Mr. PECORA. And which were those two pamphlets?

Mr. HARRIS. Short Selling, and Short Selling and Liquidation.

Mr. PECORA. Who was the author of those two pamphlets?

Mr. HARRIS. One was an address by Richard Whitney before the Hartford Chamber of Commerce in Hartford, and the other was an address by Richard Whitney, president, before the Syracuse Chamber of Commerce in Syracuse, N.Y.

Mr. PECORA. Isn't there a publication distributed by the stock exchange on short selling by a man named Meeker?

Mr. HARRIS. Mr. Meeker wrote a book, I believe, on short selling, Mr. Pecora.

Mr. PECORA. I beg pardon?

Mr. HARRIS. Mr. Meeker wrote a book on short selling, but that was his own enterprise.

Mr. PECORA. Had the stock exchange caused to be made any distribution of copies on that book?

Mr. HARRIS. I am not absolutely certain as to that.

Mr. PECORA. Do you know the book to which I refer?

Mr. HARRIS. I know the book to which you refer.

Mr. PECORA. Have you read it?

Mr. HARRIS. I have not.

Mr. PECORA. Who is Mr. Meeker, the author of that book?

Mr. HARRIS. He is the economist for the stock exchange.

Mr. PECORA. He is employed by the stock exchange?

Mr. HARRIS. He is employed by the stock exchange.

Mr. PECORA. As an economist?

Mr. HARRIS. As an economist.

Senator STEIWER. May I ask, Mr. Chairman, why the stock exchange needs an economist?

Mr. HARRIS. The stock exchange is constantly being asked various questions, to study general conditions. That is a rather difficult question to answer in a way, but he serves a very useful function. There is a large demand for his services by the public.

Mr. PECORA. To your knowledge, you cannot tell us whether or not the stock exchange has caused to be distributed copies of this book on short selling written by Mr. Meeker, its economist?

(Mr. Harris and Mr. Redmond examined data.)

Mr. HARRIS. It may be here, Mr. Pecora.

Mr. PECORA. I am a little bit surprised that as a member of the committee on publicity for the last 4 years you cannot tell us that, Mr. Harris, as a matter of personal knowledge.

Mr. HARRIS. Yes; here is the data on this, Mr. Pecora.

Mr. PECORA. What data are you reading from on that?

Mr. HARRIS. This is a copy of a questionnaire that is in the hands of your committee.

Mr. PECORA. Did you have anything to do with the preparation of the answers to that questionnaire?

Mr. HARRIS. Not this; no; I did not.

Mr. PECORA. Did your committee have anything to do with the preparation of the answers to that questionnaire?

Mr. HARRIS. Yes, sir; the chairman was consulted.

Mr. PECORA. Mr. Auchincloss. Is he the only member of the committee that formulated the answers to the questionnaire, so far as you know? Or have you any knowledge on the subject at all?

Mr. HARRIS. I believe that Mr. Auchincloss is the only one that was consulted in the answers to this questionnaire, because they were all taken right out of the records. There was no reason to consult with the committee. They were just facts that were to be presented to you. I have some data here about the book on short selling if you care to hear it.

Mr. PECORA. All right; tell us.

Mr. HARRIS. The book Short Selling was published in 1932, and 1,500 copies were purchased by the exchange and its subsidiaries. This is Mr. Meeker's book that I referred to.

Mr. PECORA. Yes?

Mr. HARRIS. All through the committee on publicity. The distribution of the book so purchased was as follows: To members or



to employees of the exchange and students of New York Stock Exchange Institute——

Mr. PECORA. No.

Mr. HARRIS. No; that is right; to officers and employees of the exchange, 103; to economics faculties of colleges, 144; foreign economists, 63; to colleges and other libraries, 155; to newspapers, magazines, and so forth, 321; public officials, 583; miscellaneous, on hand, and so forth, 131.

Mr. PECORA. What was the nature of the public officials who received 583 copies of this book on short selling during the year 1932? What kind of offices did they hold?

(Mr. Harris examined data.)

Mr. PECORA. Can't you tell us these things of your own personal knowledge, Mr. Harris?

Mr. HARRIS. Well, I believe a large number of these were sent to Members of Congress.

Mr. PECORA. And that was all done on the initiative of the stock exchange, wasn't it?

Mr. HARRIS. I believe so.

Mr. PECORA. There had not been any widespread demand from Members of Congress to be enlightened on short selling?

Mr. HARRIS. No; but it was a topic particularly at that time that they were much interested in.

Mr. PECORA. How was that evidenced to you?

Mr. HARRIS. Why, there was a great deal of talk about it in the press.

Mr. PECORA. That is, the general subject of short selling was being considerably publicly agitated throughout the calendar year 1932?

Mr. HARRIS. As I remember, there was considerable agitation in the press on the subject of short selling.

Mr. PECORA. And in that agitation much argument was heard and advanced against short selling, was there not?

Mr. HARRIS. Yes; naturally there was considerable talk on both sides of the question.

Mr. PECORA. On both sides of the question; that is, both for and against the practice of short selling; is that right?

Mr. HARRIS. Yes.

Mr. PECORA. So was it because of that that the stock exchange had its economist, Mr. Meeker, write this book?

Mr. HARRIS. Mr. Meeker wrote this book on his own free will and accord and on his own time, not in the hours he was employed by the stock exchange. It was his book.

Mr. PECORA. I presume, however, from the fact that the stock exchange as an institution has caused to be made at its own expense the distribution of that book that you have testified to, that the sentiments expressed in the book are approved by the exchange. Is that the correct assumption of fact, Mr. Harris?

Mr. HARRIS. Yes. Mr. Meeker published that. The stock exchange did not pay for the publishing of that book. The exchange did purchase some copies from him. The exchange naturally thought that it was a fine article on the subject of short selling and explained it clearly and adequately.

Mr. PECORA. Do you know what Mr. Meeker set forth in that book?

Mr. HARRIS. I have not read the book.

Mr. PECORA. The exchange gave this public distribution to this book in 1932 through the committee on publicity, didn't it?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Well, now, as a member of the committee on publicity that year, did you approve of the purchase of 1,500 copies of the book and their distribution to hundreds of people, including Members of Congress, without knowing what the contents of the book were?

Mr. HARRIS. I had not actually read the book, Mr. Pecora. I thought that I knew the basic arguments in the book.

Mr. PECORA. How did you know—

Mr. HARRIS (interposing). Not word for word.

Mr. PECORA. That without having read them? If the book represented the product of Mr. Meeker's mind—

Mr. HARRIS. Well, I knew Mr. Meeker's attitude on short selling.

Mr. PECORA. Oh, then you knew that from the fact that he had been for a number of years an economist in the employ of the stock exchange?

Mr. HARRIS. Well, through conversation with him.

Mr. PECORA. And do you happen to know what salary or compensation Mr. Meeker receives as economist for the stock exchange?

Mr. HARRIS. I haven't got that figure here.

Mr. PECORA. Do you know whether or not he is on salary?

Mr. HARRIS. He is on salary.

Mr. PECORA. Could you tell this committee, Mr. Harris, how much was expended during the calendar year 1931 by the committee on publicity in connection with its duty of—and I am quoting now from the constitution:

\* \* \* duty to keep the public correctly informed concerning matters of public interest having to do with the exchange?

Mr. HARRIS. Yes, sir.

Mr. PECORA. How much?

Mr. HARRIS. The approximate total is \$239,000.

Mr. PECORA. For the year 1931?

Mr. HARRIS. For the year of 1931, which is broken up as follows: Salaries and wages, \$52,893.64; president's speeches, \$64,449; president's annual report, \$13,988.20.

The office of the economist spent, further, an approximate total of \$45,000, which was divided as follows: \$44,203.55, salaries and wages; \$1,404.99, stationery, supplies, books, subscriptions, and so forth.

Mr. PECORA. Making a grand total of \$284,863.94 for the year?

Mr. HARRIS. Correct.

Mr. PECORA. Is that right?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Now I notice that among the figures given by you representing the moneys expended by the committee on publicity in the fulfillment of its duty of keeping the public correctly informed during the year 1931 is the figure of \$52,893.64 representing salaries and wages of the committee on publicity. To what kind of employees does it pay salaries and wages aggregating a little over a thousand dollars a week?

Mr. HARRIS. Of course, that is divided up among 24 employees, Mr. Pecora.

Mr. PECORA. No; it is 24?

Mr. HARRIS. I am sorry. It is 15. I was adding in the department of the economist.

Mr. PECORA. What sort of services are performed by these 15 employees of the committee on publicity?

Mr. HARRIS. They have a great deal of statistical work to do. They are getting up data of all sorts all the time. There are these educational pamphlets that are sent out which have to be prepared and very carefully gone over, which requires a great deal of time and a great deal of work.

Mr. PECORA. I notice that most of the pamphlets sent out during the year 1931 were copies of two addresses of Mr. Whitney.

Mr. HARRIS. Yes, sir.

Mr. PECORA. Those addresses were not prepared by the employees of the committee on publicity, were they?

Mr. HARRIS. No; those were not.

Mr. PECORA. Or any of them.

Mr. HARRIS. A great many of the pamphlets are. Of course, the year book, Mr. Pecora, takes a great deal of work, and there is a great deal of mail constantly coming into that department that must be answered, various members of the public asking questions.

Mr. PECORA. I show you, Mr. Harris, a typewritten statement entitled "Schedule C. Committee on Publicity", covering items of expenditures for the years 1929 to 1933, both inclusive. Will you look at it and tell us if it is a true and correct statement of the items referred to therein?

Mr. HARRIS (after examining paper). That is a true statement.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Copy of statement entitled "Schedule C, Committee on Publicity", 1929, to 1933, both inclusive, was received in evidence, marked "Committee Exhibit No. 109", Feb. 23, 1934, and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. The document has been marked in evidence as "Committee's Exhibit No. 109" of this date, and shows the moneys expended by the committee on publicity for each of the years in the 5-year period, 1929 to 1933, both inclusive, as follows: For the year 1929, \$174,846.11; for the year 1930, \$243,964.91; for the year 1931, \$284,863.94; for the year 1932, \$206,439.25; for the year 1933, \$92,970.51.

Mr. HARRIS. Mr. Pecora, that is only up to September 1.

Mr. PECORA. That is, for 1933?

Mr. HARRIS. For 1933.

Mr. PECORA. That makes a total for that approximate 5-year period of \$1,001,084.72, if our calculation is correct.

Mr. HARRIS. I have not totaled it here yet.

Mr. PECORA. Subject to correction, I think you can safely accept that total.

Now, I notice in this statement or recapitulation marked "Committee's Exhibit No. 109", an item of expenses attributed to "year-books, miscellaneous, other publications, gallery pamphlets, motion-



picture expenses, postage, et cetera." What are the motion-picture expenses included therein?

Mr. HARRIS. Several years ago the exchange had two films showing the trading floor of the New York Stock Exchange, and actual trading conditions as they existed, and those have been shown in various theaters throughout the country.

Mr. PECORA. What were the titles of these two motion-picture films?

Mr. HARRIS. I am sorry. I have seen them both. They have slipped my mind. One was called "The Nation's Market Place."

Mr. PECORA. When was that film made?

Mr. HARRIS. Several years ago. I have not got the exact date.

Mr. PECORA. What is the title of the other one?

Mr. HARRIS. I do not remember. I have no recollection.

Mr. PECORA. Isn't it The Mechanics of the Nation's Market Place, Part I, The Training of the Boys?

Mr. HARRIS. Yes; that is right.

Mr. PECORA. When was that picture made?

Mr. HARRIS. Likewise several years ago. There have been new cuts put into it within 2 years, but it is an old picture.

Mr. PECORA. It was brought down to date, that is, up to 2 years ago, by revisions.

Mr. HARRIS. I believe so.

Mr. PECORA. Are they sound pictures?

Mr. HARRIS. The original picture was not a sound picture. I believe the second picture is a sound picture—at least parts of it.

Mr. PECORA. How are these two pictures exhibited, under the direction of the committee on publicity?

Mr. HARRIS. They were shown in various theaters throughout the country. One concern had exclusive rights. They were shown where there seemed to be a demand in any locality. If there was a demand for a stock-exchange picture, this picture was put on.

Mr. PECORA. How would that demand become manifest to stock exchange's committee on publicity?

Mr. HARRIS. The agent of these pictures would get a demand from a certain theater for a picture of this type, and would then write the stock exchange about it.

Mr. PECORA. Would he get the demand, or would he go out and create it?

Mr. HARRIS. I cannot speak for the agent, Mr. Pecora.

Mr. PECORA. Was the use of these films made available free of charge by the stock exchange?

Mr. HARRIS. It was.

Mr. PECORA. Do you know throughout what area they were exhibited?

Mr. HARRIS. Practically throughout the country.

Mr. PECORA. Were they exhibited in motion-picture houses principally?

Mr. HARRIS. Principally motion-picture houses.

Mr. PECORA. Have you any notion that the owners of motion-picture houses observed any demand on the part of their patrons for the exhibition of these pictures?

Mr. HARRIS. Yes; from time to time the committee on publicity has had letters from various theaters saying that there was a demand from the public for one of these two pictures.

Mr. PECORA. Have you available to you any records or statistics showing the aggregate number, approximately, that composed the audiences to whom these pictures were exhibited during the year 1931?

Mr. HARRIS. I have not, Mr. Pecora, but we might be able to furnish you with those figures.

Mr. PECORA. There is a yearbook issued annually by the New York Stock Exchange, is there not?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Don't you know that that yearbook contains those figures?

Mr. HARRIS. As I say, I came down very hurriedly and, as this was not specified, I did not bring it.

Mr. PECORA. Have you ever read the yearbook?

Mr. HARRIS. I do not think I have read it word for word, but I have always gone through it yearly as it comes out.

Mr. PECORA. Do you recall that at one time, or at any time when you have read the yearbook, reference was made to the number of exhibitions of these motion pictures as a part of the work done by your committee on publicity?

Mr. HARRIS. Yes; I believe it is so mentioned.

Mr. PECORA. I have what purports to be a copy of the yearbook of the New York Stock Exchange for 1931 and 1932. From page 73 thereof let me read as follows [reading]:

Two motion pictures of the activities of the exchange have been made under the supervision of the committee on publicity and are now available for exhibition purposes. The two films are entitled "The Nation's Market Place" and "The Mechanics of the Nation's Market Place, Part I, The Training of the Boys."

By the way, who picked out that title?

Mr. HARRIS. I do not know. I did not.

The CHAIRMAN. Who was the agent who handled these films?

Mr. HARRIS. The committee on publicity controlled the pictures.

The CHAIRMAN. You made your contract with some agent for the handling of the films. You did not go about the country exhibiting them yourself.

Mr. HARRIS. Oh, no. It was a company that acted as our agents.

The CHAIRMAN. I am asking who that was.

Mr. HARRIS. They recently went bankrupt, Mr. Chairman, and we had to get the films back from them. I cannot think of their name.

Mr. PECORA. Apparently the demand for these films has died down.

Mr. HARRIS. I do not think that is what caused their bankruptcy.

The CHAIRMAN. That does not quite identify them.

Mr. PECORA. In the title of this second picture, called "The Mechanics of the Nation's Market Place, Part I, the Training of the Boys", does the word "mechanics" refer to the machinery of the exchange, or to any of its members?

Mr. HARRIS. They are more or less combined. It refers to the general operation, the general mechanism of the exchange.

Mr. PECORA. I will read further from page 73 of this yearbook for 1931 and 1932, [reading]:

The first film tells a connected story of the methods by which business is done on the floor of the exchange; and the second film deals with the personnel of the exchange, showing the thorough training of its employees, as a result of which the exchange's high standard of public service is maintained. Since December 1928, when the film "The Nation's Market Place" was produced, it has been shown to audiences throughout the United States totaling more than 3,500,000 people. During the last year a sound track lecture has been added to this film. Arrangements are being made to show this film both theatrically and nontheatrically throughout the United States. Requests for prints of this film have been received from Japan, Czechoslovakia, and other foreign countries. The projection time of "The Nation's Market Place" is approximately 12 minutes; that of "The Mechanics of the Nation's Market Place" is 20 minutes. These films may be obtained for exhibition upon application to the committee on publicity of the exchange. There is no charge except the express costs of transporting the film from New York and back.

Who prepares the yearbook for the exchange?

Mr. HARRIS. The committee on publicity prepares the yearbook.

Mr. PECORA. What particular individual or individuals, or employees?

Mr. HARRIS. Two employees. Mr. Jason Westerfield and Mr. Charles Klem.

Mr. PECORA. Do they prepare it in accordance with their ideas of what its contents should be, or do they prepare it under the instructions as to such content that they get from someone else?

Mr. HARRIS. There is more or less routine work, of course, that comes in yearly, and the balance is gone over by the president and the committee.

Mr. PECORA. Mr. Harris, how much has been appropriated for use by the committee on publicity of the stock exchange for the current year, 1934?

Mr. HARRIS. The budget figure for 1934?

Mr. PECORA. Yes.

Mr. HARRIS. \$200,000.

Mr. PECORA. Has there been any appropriation made outside of that budget figure?

Mr. HARRIS. None that I know of. I believe the budget is the same as last year, when it was also \$200,000, and only \$92,000 was spent.

Mr. PECORA. What was the special occasion for calling this meeting of the committee on publicity day before yesterday which, according to your recollection this afternoon, is the only meeting it has held so far this year?

Mr. HARRIS. It was a very minor, unimportant matter, Mr. Pecora. It was a question whether or not the exchange would spend \$2,000 to fix up an anteroom outside the gallery for visitors so that they could sit down while they were waiting to go in the gallery. That was the purpose of the meeting.

Mr. PECORA. Mr. Chairman, it is now very close to 4 o'clock.

The CHAIRMAN. Mr. Harris, does this committee do any more in the way of publicity than what you have mentioned? Do they furnish statements for the press, or anything of that sort?

Mr. HARRIS. On rare occasions the committee on publicity does, yes. If there is an important announcement coming out, or a change in rulings, it is given to the press through the secretary of the committee on publicity.



MR. PECORA. Mr. Chairman, I have not any other matters I want to examine this witness about. I will ask that he return here at the next session of the committee on Monday morning.

THE CHAIRMAN. The committee will take a recess until Monday morning at 10:30. We will go on with these hearings then. In the afternoon of Monday we expect to take up the bill, but we will not reach that until Monday afternoon.

(Whereupon, at 3:34 p.m., Friday, Feb. 23, 1934, an adjournment was taken until Monday, Feb. 26, 1934, at 10:30 a.m.)

COMMITTEE EXHIBIT No 86, FEBRUARY 23, 1934

CITIES SERVICE COMPANY,  
SIXTY WALL STREET,  
New York, N.Y., November 1, 1933.

MR. FERDINAND PECORA,  
Counsel, Committee on Banking and Currency,  
285 Madison Avenue, New York, New York.

MY DEAR MR. PECORA: With further reference to your inquiry of October 26th, you will find enclosed herewith completed questionnaire, which we trust you will find in order.

Sincerely yours,

W. A. JONES.

WAJ:g

QUESTIONS AND ANSWERS REGARDING CALL LOANS OF YEAR 1929

A. Give the following data for the year 1929:

1. Total number of street loans made by your Corporation in the call money market in New York City.

*Answer:* The total number of street loans made in the call money market in New York City was 912.

2. The total amount of street loans made by your Corporation in the call money market in New York City.

*Answer:* The total amount of street loans in the call money market in New York City was \$285,325,092.21.

*Note:* This amount represents the cumulative amount of street loans made during the year. You will appreciate that street loans may be made one day and paid the next day. Consequently the total amount represents the loaning of the same funds over and over again. The maximum amount of call money in any one day loaned by Cities Service Company was \$11,900,000. This is shown, together with other data, in the listing shown below, which was not requested in your questionnaire but which we thought might be of value or interest.

(a) Maximum amount of call money, one day----- \$11,900,000.00

(b) Average daily amount of call loans outstanding--- 10,375,778.23

(c) Average amount of each loan made----- 312,856.46

3. State the manner or method in which the loans made in the call money market in New York City were effected; whether effected through commercial banks, private banks, or other agency, describing the agency, or directly to borrower.

*Answer:* The above loans were made direct to borrower.

COMMITTEE EXHIBIT No. 87, FEBRUARY 23, 1934

CITIES SERVICE COMPANY,  
SIXTY WALL STREET,  
New York, N.Y., November 11, 1933.

COMMITTEE ON BANKING AND CURRENCY,  
285 Madison Avenue, New York, N.Y.

Attention: Mr. Ellis.

DEAR SIR: In response to your telephone request, we enclose herewith a statement accounting for the call loans outstanding on the day in the year

1929 when call loans were in the largest amount. The list attached indicates to whom loans were made and the amounts involved, the total of which was \$41,900,000.

In respect to your inquiry regarding the total number of shares transferred in 1929, we wish to advise that from January 1, 1929 to May 1, 1929, 3,936,159 shares of \$20 par value stock were transferred; and from May 2, 1929 to December 31, 1929, 49,500,528 shares of no par value stock were transferred.

Yours very truly,

W. B. S. WINANS.

DETAILS OF MAXIMUM CALL LOANS OUTSTANDING ANY ONE DAY 1929—SEPTEMBER 25, 1929

Name:	Amount
Anderson & Fox	\$100,000.00
Annenberg Stein & Co.	100,000.00
Appenzeller, Allen & Hill	200,000.00
Blake Bros. & Co.	100,000.00
Blyth & Company	2,000,000.00
Buell & Company	300,000.00
Campbell Starring & Company	800,000.00
Carreau & Snedeker	100,000.00
S. B. Chapin & Company	200,000.00
Clark Childs & Company	1,400,000.00
Colvin & Company	500,000.00
Frank B. Cohn & Company	100,000.00
Collins Hall & Peckham	200,000.00
Curtis & Sanger	200,000.00
De Saint Phalle & Company	1,000,000.00
De Basque & De Witt & Company	200,000.00
Drayton Pennington & Colket	300,000.00
Emmanuel & Company	300,000.00
Eric & Shreveers	500,000.00
Walter J. Fahy & Company	500,000.00
Faroll Bros.	900,000.00
Fenner & Beane	300,000.00
Frazier Jelke & Company	1,000,000.00
Gardner & Company	100,000.00
Goodbody & Company	500,000.00
Gray & Wilmerding	700,000.00
Gurnett & Company	900,000.00
C. D. Halsey & Company	500,000.00
Harde and Sharp	100,000.00
H. Hentz & Company	2,000,000.00
Benjamin Hill & Company	1,600,000.00
J. H. Colmes & Company	2,100,000.00
E. F. Hutton & Company	500,000.00
W. E. Hutton & Company	500,000.00
Hyman & Company	700,000.00
Ingalls & Snyder	400,000.00
Lamborn Hutchings & Company	200,000.00
Arthur Lipper & Company	500,000.00
Luhner & Shackon	100,000.00
Ludwig Robertson & Company	700,000.00
Livingston & Company	1,000,000.00
Luke Banks & Weeks	300,000.00
McGlenn & Company	200,000.00
Joseph Madrian & Company	100,000.00
John Medady & Company	500,000.00
M. J. Meehan & Company	500,000.00
Morris Joseph & Company	100,000.00
Morrison & Townsend	1,650,000.00
Moyse & Holmes	100,000.00
Munds & Winslow	800,000.00
Newburger Henderson & Loeb	1,000,000.00

Name:	Amount
Newman Bros. & Woimes-----	\$700,000.00
Naumberg Dixon & Company-----	500,000.00
Orton Kent & Company-----	300,000.00
Otis & Company-----	2,000,000.00
Palmer & Company-----	300,000.00
Parker McElroy & Company-----	100,000.00
Prentice & Slepach-----	500,000.00
Pynchon & Company-----	1,000,000.00
Arthur J. Rosenthal & Company-----	1,200,000.00
Russell Miller & Company-----	1,200,000.00
Smith, Graham & Rockwell-----	250,000.00
Stevens & Legg-----	100,000.00
Sulzbacker Granger & Company-----	100,000.00
Samuel Ungerlieders & Company-----	1,000,000.00
Tobey & Kirk-----	800,000.00
Tooker & Company-----	400,000.00
Tucker Anthony & Company-----	700,000.00
Watson & White-----	100,000.00
Edwin Weisl & Company-----	1,000,000.00
Total-----	\$41,900,000.00

## COMMITTEE EXHIBIT NO. 88, FEBRUARY 23, 1934

AMERICAN & FOREIGN POWER COMPANY, INC.,  
New York, N.Y., November 9, 1933.

FERDINAND PECORA, Esq.

*Counsel Committee on Banking and Currency, United States Senate,  
285 Madison Avenue, New York City.*

DEAR MR. PECORA: In accordance with the request contained in your letter of October 17th, I desire to report as follows in answer to your questionnaire:

A.-1. The total number of shares of the Common Stock of American & Foreign Power Company Inc. appearing on our records as of March 1, 1929<sup>1</sup> in the name of such stock brokerage firms as we were able to identify as stock brokerage firms was 345,250.

2. The total number of such brokers and brokerage firms as we were able to identify as brokers and brokerage firms appearing on the records of American & Foreign Power Company Inc. as of March 11, 1929 as the owners of Common Stock of that Company was 340.

3. The total number of shares appearing on our records as of March 11, 1929 in each of the names of such brokers or brokerage firms as we were able to identify as brokers and brokerage firms and who are the first ten largest broker-holders of record of shares of Common Stock was 104,977. The designation by number in order of numerical holdings is as follows:

1-----	21,950	7-----	8,265
2-----	16,200	8-----	6,379
3-----	11,003	9-----	5,760
4-----	10,603	10-----	5,645
5-----	10,410		
6-----	8,762	Total-----	104,977

B.-1. The total number of shares of the Common Stock of American & Foreign Power Company Inc. transferred on our books from one ownership to another during the year 1929 was 1,930,679.

2. The total number of transfers of the Common Stock of American & Foreign Power Company Inc. from one ownership to another for the year 1929 was 32,159.

A.-1. The total number of street loans made by American & Foreign Power Company Inc. in the call money market of New York City for the year 1929 was 91.

<sup>1</sup> This date selected as it was nearest date to July 1, 1929. We already had a stockholders' list as of Mar. 11, 1929, and had it available.



2. The total amount of street loans made by American & Foreign Power Company Inc. in the call money market in 1929 was \$57,610,000. The peak amount on loan, at any one time, however, was \$30,321,000 and the daily average for the year was \$6,477,729. This includes loans made by American & Foreign Power Company Inc. and by any and all of its subsidiary holding companies, entities or any other agency under direct or indirect control and management of American & Foreign Power Company Inc. For your information, the amounts included herein are also included in the answers to the Questionnaire filed by Electric Bond and Share Company.

3. All of the above call loans were made through commercial banks.

Very truly yours,

AMERICAN & FOREIGN POWER COMPANY INC.,  
By A. C. RAY, *Treasurer.*

AMERICAN & FOREIGN POWER COMPANY, INC.,  
*New York, N.Y., February 19, 1934.*

MR. DAVID SCHENKER,  
*Associate Counsel Committee on Banking & Currency,  
United States Senate, 285 Madison Avenue, New York City.*

DEAR SIR: In accordance with the request over the telephone today from your office, I wish to confirm that the peak amount of street loans in the call money market of New York City at any one time during the year 1929 for American & Foreign Power Company Inc. and by any and all of its subsidiary holding companies, entities or any other agency under direct or indirect control and management of American & Foreign Power Company Inc. was \$30,321,000, and the lowest amount during the year 1929 was \$100,000.

As previously stated in our letter to Mr. Pecora dated November 9, 1933, all of the above call loans were made through commercial banks.

Very truly yours,

AMERICAN & FOREIGN POWER COMPANY INC.,  
A. C. RAY, *Treasurer.*

COMMITTEE EXHIBIT No. 89, FEBRUARY 23, 1934

STANDARD OIL COMPANY,  
*New York, November Third, 1933.*

HONORABLE FERDINAND PECORA,  
*Counsel United States Senate Committee on Banking and Currency,  
285 Madison Avenue, New York, N.Y.*

DEAR MR. PECORA: Reference is made to your letter of October 17th, 1933, requesting certain information in response to the two questionnaires enclosed, and to your letter of October 26th, 1933, relative to the same matter. The first questionnaire dealt with the matter of call-money loans and the second questionnaire with ownership and transfer information in connection with our capital stock. Answering these requests for information in that order, the following is submitted:

#### I. CALL-MONEY LOANS

The business of this Company has required at all times the maintenance of a substantial working capital in liquid form. Beyond our actual cash needs, it has of course been important to us to keep this profitably invested to the extent possible; and to that end we have been accustomed to buy federal, state and municipal short-termed obligations and also to avail ourselves of the even more liquid field of the New York call-money market. For the latter purpose, during 1929, the loaning of our surplus funds was handled under arrangement with a brokerage firm, members of the New York Stock Exchange.

We attach hereto as Schedule "A" (13 pages) a statement showing, for each day of the year 1929, the total number of borrowers and the total amount of the funds of this Company and its subsidiaries and affiliates thus outstanding.

The schedule also shows recapitulation for the year by months, at the foot of which is given the daily average during the year in numbers of borrowers and amounts of loans.

## 2. DATA ON CAPITAL STOCK OWNERSHIP AND TRANSFER

The Guaranty Trust Company of New York, as transfer agent of our capital stock, advises as follows:

A1. Shares outstanding in the names of stock-brokerage firms as of the close of business May 25, 1929, 2,244,221.

A2. Number of brokers or brokerage firms appearing as record owners at the close of business May 25, 1929, 475.

A3. First 10 largest broker holders as of record May 25, 1929:

a. 222,826 shares	f. 53,069 shares
b. 128,475 shares	g. 46,881 shares
c. 123,685 shares	h. 42,058 shares
d. 73,277 shares	i. 37,355 shares
e. 54,276 shares	j. 34,700 shares

B1. Total number of shares transferred during the calendar year 1929, 16,828,779.

B2. Total number of transfers during the year 1929, 238,770.

The Trust Company advises us that the answers to B1 and B2, as given above, do not strictly comply with your questionnaire in representing transfers from one ownership to another and that it would require a tremendous amount of work and analysis to secure such information. The reasons for this are as follows: If a stockholder sends in a certificate for 100 shares, of which 20 shares have been sold and are to be transferred to a new owner, the Transfer Agent will issue a new certificate for 20 shares in the name of the new owner and a new certificate for 80 shares in the name of the original owner. This will appear on the Transfer Agent's records as two transfers aggregating 100 shares, when in fact but a single transfer of ownership in 20 shares has occurred. A similar situation arises when a certificate for a number of shares is sent in to be split into smaller certificates issued to the same owner: the figures therefore given in answer to B1 and B2 contain a considerable number of technical transfers which do not represent changes of ownership.

Trusting that the foregoing information answers your question, I am

Respectfully yours,

W. C. TEAGLE.

### SCHEDULE A.—1929 recapitulation Standard Oil Co. (New Jersey) with subsidiary and affiliated companies (daily averages by months)

[000 omitted in amount column]

Month	Number of borrowers	Amount	Month	Number of borrowers	Amount
January.....	83	\$75,692	Jan. 9.....	78	\$72,264
February.....	84	72,310	Jan. 10.....	76	69,424
March.....	92	75,359	Jan. 11.....	78	72,054
April.....	102	79,736	Jan. 14.....	78	69,759
May.....	89	76,857	Jan. 15.....	86	73,809
June.....	89	79,853	Jan. 16.....	86	73,059
July.....	91	83,538	Jan. 17.....	89	76,884
August.....	94	85,788	Jan. 18.....	88	79,284
September.....	96	86,650	Jan. 19.....	88	79,484
October.....	89	79,157	Jan. 21.....	89	82,309
November.....	25	16,372	Jan. 22.....	87	82,459
December.....	19	20,049	Jan. 23.....	82	83,259
Average per day (yearly).....	79	69,304	Jan. 24.....	83	83,359
Jan. 1.....	78	70,631	Jan. 25.....	83	78,444
Jan. 2.....	87	71,681	Jan. 28.....	82	75,694
Jan. 3.....	86	74,581	Jan. 29.....	81	75,544
Jan. 4.....	83	74,889	Jan. 30.....	79	75,044
Jan. 7.....	82	75,164	Jan. 31.....	80	72,019
Jan. 8.....	82	75,504	Average per day.....	83	75,692

SCHEDULE A.—1929 recapitulation Standard Oil Co. (New Jersey) with subsidiary and affiliated companies (daily averages by months)—Continued

[000 omitted in amount column]

Month	Number of borrowers	Amount	Month	Number of borrowers	Amount
Feb. 1	79	\$68,969	May 14	84	\$74,016
Feb. 4	85	73,662	May 15	86	74,516
Feb. 5	84	72,772	May 16	87	74,341
Feb. 6	85	72,472	May 17	89	76,741
Feb. 7	86	72,872	May 20	92	79,741
Feb. 8	86	72,472	May 21	94	77,291
Feb. 11	81	70,975	May 22	91	77,691
Feb. 13	82	70,200	May 23	86	74,401
Feb. 14	83	69,900	May 24	85	76,276
Feb. 15	80	68,950	May 27	85	75,816
Feb. 18	84	70,000	May 28	86	75,726
Feb. 19	83	71,300	May 29	85	75,226
Feb. 20	90	74,000	May 31	87	75,068
Feb. 21	88	72,550			
Feb. 25	90	75,100	Average per day	89	76,857
Feb. 26	88	74,750			
Feb. 27	90	74,775	June 1	89	75,068
Feb. 28	92	75,840	June 3	91	76,693
Average per day	84	72,310	June 4	93	78,193
			June 5	90	78,243
Mar. 1	92	76,830	June 6	92	77,693
Mar. 4	91	76,580	June 7	95	77,693
Mar. 5	96	77,283	June 10	94	79,493
Mar. 6	96	76,983	June 11	84	80,593
Mar. 7	94	76,958	June 12	85	78,243
Mar. 8	88	75,558	June 13	82	77,543
Mar. 11	86	73,308	June 14	89	81,143
Mar. 12	87	74,573	June 17	86	78,193
Mar. 13	85	74,798	June 18	88	78,168
Mar. 14	87	69,918	June 19	86	80,008
Mar. 15	89	69,018	June 20	89	82,908
Mar. 18	78	71,768	June 21	88	82,158
Mar. 19	84	72,618	June 24	88	81,283
Mar. 20	90	75,068	June 25	89	82,683
Mar. 21	90	75,468	June 26	91	84,183
Mar. 22	97	75,993	June 27	91	84,183
Mar. 25	97	75,718	June 28	90	82,558
Mar. 26	107	76,868			
Mar. 27	108	81,168	Average per day	89	79,853
Mar. 28	103	80,718			
Average per day	92	75,359	July 1	89	84,158
			July 2	85	82,062
Apr. 1	101	77,843	July 3	85	81,712
Apr. 2	102	78,693	July 5	90	83,087
Apr. 3	106	78,543	July 8	85	79,287
Apr. 4	102	80,021	July 9	91	81,287
Apr. 5	102	80,971	July 10	95	82,137
Apr. 8	101	80,696	July 11	95	83,587
Apr. 9	101	79,146	July 12	94	82,637
Apr. 10	103	79,596	July 15	85	78,037
Apr. 11	102	79,896	July 16	85	79,237
Apr. 12	101	79,421	July 17	92	83,087
Apr. 15	93	75,221	July 18	92	84,837
Apr. 16	94	74,921	July 19	91	84,437
Apr. 17	101	78,571	July 22	89	84,662
Apr. 18	105	79,996	July 23	92	86,062
Apr. 19	106	79,371	July 24	95	87,312
Apr. 22	104	80,921	July 25	95	89,337
Apr. 23	104	81,311	July 26	94	87,537
Apr. 24	108	82,161	July 29	93	87,287
Apr. 25	103	82,861	July 30	95	86,737
Apr. 26	106	82,861	July 31	96	85,912
Apr. 29	103	80,636			
Apr. 30	103	80,536	Average per day	91	83,538
Average per day	102	79,736			
			Aug. 1	98	87,862
May 1	99	80,786	Aug. 2	97	88,362
May 2	99	80,806	Aug. 5	93	85,965
May 3	91	79,891	Aug. 6	94	86,865
May 6	85	77,891	Aug. 7	98	86,865
May 7	89	78,416	Aug. 8	98	86,765
May 8	86	76,891	Aug. 9	97	85,365
May 9	98	76,291	Aug. 12	93	83,365
May 10	99	76,841	Aug. 13	92	83,415
May 13	87	76,191	Aug. 14	91	82,215
			Aug. 15	87	79,490
			Aug. 16	84	77,890
			Aug. 19	86	79,390



SCHEDULE A.—1929 recapitulation Standard Oil Co. (New Jersey) with subsidiary and affiliated companies (daily averages by months)—Continued

[000 omitted in amount column]

Month	Number of borrowers	Amount	Month	Number of borrowers	Amount
Aug. 20.....	87	\$81,940	Oct. 25.....	103	【\$91,692
Aug. 21.....	87	81,890	Oct. 28.....	93	85,500
Aug. 22.....	93	85,625	Oct. 29.....	67	56,100
Aug. 23.....	95	88,325	Oct. 30.....	47	31,516
Aug. 26.....	99	89,200	Oct. 31.....	41	28,266
Aug. 27.....	98	90,095			
Aug. 28.....	101	91,745	Average per day.....	89	79,157
Aug. 29.....	98	92,345			
Aug. 30.....	101	92,370			
Average per day.....	94	85,788			
Sept. 1.....	96	92,370	Nov. 1.....	41	26,316
Sept. 3.....	96	94,145	Nov. 4.....	40	25,316
Sept. 4.....	95	94,620	Nov. 6.....	40	23,316
Sept. 5.....	96	95,970	Nov. 7.....	37	21,308
Sept. 6.....	98	96,624	Nov. 8.....	36	20,133
Sept. 9.....	99	97,824	Nov. 11.....	28	17,383
Sept. 13.....	100	95,724	Nov. 12.....	27	16,583
Sept. 11.....	103	97,774	Nov. 13.....	25	14,833
Sept. 12.....	102	96,774	Nov. 14.....	22	13,683
Sept. 13.....	99	94,774	Nov. 15.....	20	12,578
Sept. 16.....	91	75,224	Nov. 18.....	18	12,578
Sept. 17.....	92	75,924	Nov. 19.....	18	12,053
Sept. 18.....	93	75,874	Nov. 20.....	17	11,628
Sept. 19.....	94	76,024	Nov. 21.....	16	11,128
Sept. 20.....	102	78,874	Nov. 22.....	16	11,428
Sept. 23.....	95	77,974	Nov. 25.....	16	14,128
Sept. 24.....	100	79,924	Nov. 26.....	16	14,678
Sept. 25.....	95	80,049	Nov. 27.....	16	15,628
Sept. 26.....	93	81,099			
Sept. 27.....	94	82,699	Average per day.....	25	16,372
Sept. 30.....	90	79,399			
Average per day.....	96	86,650			
Oct. 1.....	87	81,696	Dec. 1.....	28	15,628
Oct. 2.....	88	82,199	Dec. 2.....	30	20,628
Oct. 3.....	90	83,599	Dec. 3.....	27	20,441
Oct. 4.....	93	85,499	Dec. 4.....	26	20,391
Oct. 7.....	96	85,802	Dec. 5.....	24	20,391
Oct. 8.....	96	86,002	Dec. 6.....	15	24,211
Oct. 9.....	99	85,402	Dec. 9.....	6	20,541
Oct. 10.....	96	85,502	Dec. 10.....	6	17,691
Oct. 11.....	100	86,002	Dec. 11.....	6	18,441
Oct. 14.....	96	83,202	Dec. 12.....	6	18,791
Oct. 15.....	89	80,052	Dec. 13.....	6	17,131
Oct. 16.....	87	78,602	Dec. 16.....	22	20,931
Oct. 17.....	87	83,052	Dec. 17.....	20	22,731
Oct. 18.....	100	84,252	Dec. 18.....	21	23,131
Oct. 21.....	97	89,052	Dec. 19.....	19	20,406
Oct. 22.....	99	88,852	Dec. 20.....	22	23,106
Oct. 23.....	100	87,702	Dec. 23.....	19	20,106
Oct. 24.....	105	91,152	Dec. 24.....	15	19,606
			Dec. 26.....	21	20,776
			Dec. 27.....	21	21,576
			Dec. 30.....	21	17,241
			Dec. 31.....	25	17,191
			Average per day.....	19	20,049

COMMITTEE EXHIBIT NO. 90, FEBRUARY 23, 1934

Interest on Jesup & Lamont deposit account for year 1929

1929-

January.....	\$403,664.47
February.....	327,082.64
March.....	526,922.75
April.....	485,131.04
May.....	491,818.29
June.....	455,953.03
July.....	600,940.47
August.....	552,201.24
September.....	565,228.41
October.....	398,890.12
November.....	63,304.18
December.....	74,081.01
Total.....	4,945,217.65

COMMITTEE EXHIBIT No. 91, FEBRUARY 23, 1934

## CONSOLIDATED OIL CORPORATION

45 Nassau Street, New York City

Honorable FERDINAND PECORA,  
*Counsel Committee on Banking and Currency,*  
 285 Madison Avenue,  
 New York City, N.Y.

CHICAGO, ILLINOIS,  
 October 25, 1933,

DEAR SIR: Complying with your request of October 17th, we enclose herewith copy of your questionnaire and answer thereto by Consolidated Oil Corporation.  
 Yours very truly,

G. T. STANFORD,  
*General Counsel.*

## VII-2

QUESTIONNAIRE PROPOUNDED BY THE HONORABLE FERDINAND PECORA, COUNSEL TO THE COMMITTEE ON BANKING AND CURRENCY, TO CONSOLIDATED OIL CORPORATION, AND ANSWERS THERETO BY SAID CORPORATION

A.

1. Give the total number of shares of the common stock of your Corporation appearing on your records in the names of stock brokerage firms as of July 1, 1929, and July 1, 1933.

*Answer:* We give the information as of June 15, 1929, for the reason that to give the information as of July 1st would entail a great deal of detail work which would delay materially the answer to the questionnaire. The list as of June 15, 1929, was compiled at the time for dividend purposes. As of June 15, 1929, there were outstanding 3,563,502 shares of the common capital stock of Sinclair Consolidated Oil Corporation in the names of brokers and/or broker firms, and as of July 1, 1933, there were 2,891,805 shares outstanding in the names of brokers and/or broker firms.

2. Give the total number of brokers and brokerage firms appearing upon your records as the owners of common stock of your Corporation.

*Answer:* As of June 15, 1929, there were 739 brokers and/or broker firms appearing on our records as the owners of the common capital stock of our Corporation, and as of July 1, 1933, there were 878 brokers and/or broker firms appearing on our records as the owners of the common capital stock of our Corporation.

3. Give as of July 1, 1929, and July 1, 1933, the total number of shares appearing upon your records in each of the names of brokers or brokerage firms who are the first ten largest broker holders of record of shares of common stock. Designation need not be made by name, but may be by number, in order of numerical holdings.

*Answer:* The ten largest broker accounts of record as of June 15, 1929, were as follows:

No. 1	-----	277,620 shares
2	-----	137,222 "
3	-----	117,705 "
4	-----	110,467 "
5	-----	94,035 "
6	-----	87,612 "
7	-----	81,815 "
8	-----	73,881 "
9	-----	68,259 "
10	-----	61,234 "

The ten largest broker accounts of record as of July 1, 1933, were as follows:

No. 1	-----	412,650 shares
2	-----	120,275 "
3	-----	85,629 "
4	-----	63,675 "
5	-----	58,931 "
6	-----	54,996 "
7	-----	53,969 "
8	-----	36,074 "
9	-----	35,453 "
10	-----	31,966 "

B. Give the following information for the year 1929:

1. The total number of shares of the common stock of your Corporation transferred on your books from one ownership to another.
2. The total number of transfers of the common stock of your Corporation from one corporation to another.

*Answer:* During the calendar year 1929, new certificates were issued and old certificates cancelled for a total of 8,910,126 shares of the common capital stock of Sinclair Consolidated Oil Corporation.

There was a total of twelve transfers of the common stock of Sinclair Consolidated Oil Corporation during 1929 from the name of one corporation of record to another corporation, and such transactions involved a total of 7,175 shares.

C. (A?) Give the following data for the year 1929:

1. Total number of street loans made by your Corporation in the call money market of New York City.
2. The total amount of the street loans made by your Corporation in the call money market of New York City.

In replying to (1) and (2) include the loans made by your Corporation and by any and all of its subsidiaries, holding companies, affiliates, or any other agency or entity under direct or indirect control and management of the parent corporation. The total amount so loaned by the parent corporation and its subsidiaries, holding companies, affiliates and other agency or legal entities under such direct or indirect control or management need only be given, without allocation to the particular entity.

3. State the manner or method in which the loans made in the call money market in New York City were effected: whether effected through commercial banks, private banks, or other agency, describing the agency, or directly to the borrower.

*Answer:* The answer to this questionnaire is set forth in "Exhibit A", hereto attached. All loans therein listed made by Consolidated Oil Corporation and/or any subsidiaries or affiliated corporations during the year 1929 were made in the call money market through banks, no loans being made direct to the borrower. You will note there are included in "Exhibit A" certain loans made by Sinclair Pipe Line Company and Sinclair Crude Oil Purchasing Company. Consolidated Oil Corporation (name changed from Sinclair Consolidated Oil Corporation) does not at this time own any interest in either of these two corporations, but did during the year 1929. The information with regard to the loans made by these two corporations is taken from memorandum records only.

Respectfully submitted,

CONSOLIDATED OIL CORPORATION,  
By G. T. STANFORD, *General Counsel.*







## COMMITTEE EXHIBIT No. 92, FEBRUARY 23, 1934

*Total number and amount of street loans made by private corporations for year 1929, in the call money market of New York City*

Name of Corporation	No. of Street Loans Made	Total Amount	Peak Amount
American Founders Corporation and Subsidiaries.....	1,583	\$424,450,000.00	\$23,629,166.66
American & Foreign Power Company, Inc. and Subsidiaries.....	91	57,610,000.00	30,321,000.00
Anaconda Copper Mining Co.....	374	149,000,000.00	16,000,000.00
Auburn Automobile Company.....	147	79,800,000.00	32,500,000.00
Bethlehem Steel Corporation and Subsidiaries.....	13	1,600,000.00	(1)
Chrysler Corporation.....	911	539,100,000.00	157,450,000.00
Cities Service Company.....	(1)	(1)	60,150,000.00
Consolidated Oil Corporation.....	912	285,325,092.21	41,900,000.00
Electric Bond & Share Co. and Subsidiaries.....	(1)	211,000,000.00	15,000,000.00
General Foods Corporation.....	1,572	809,685,000.00	157,579,000.00
General Motors Corporation <sup>2</sup> .....	187	36,000,000.00	3,400,000.00
International Nickel Co. Inc.....	201	105,700,000.00	25,000,000.00
Pan American Petroleum & Transport Co.....	14	3,000,000.00	500,000.00
Radio Corporation of America and Subsidiaries.....	(1)	9,500,000.00	8,000,000.00
Radio-Keith-Orpheum Corporation.....	(1)	18,600,000.00	1,000,000.00
Standard Oil Co. of N.J. and Subsidiaries.....	(1)	(1)	8,000,000.00
Tri-Continental Corp. and Affiliated Corps.....	<sup>3</sup> 20,466	<sup>4</sup> 17,672,520,000.00	97,824,000.00
The United Corporation.....	209	219,250,000.00	62,150,000.00
The United Gas & Improvement Co. and Subsidiaries.....	6	7,400,000.00	3,000,000.00
	53	(1)	3,600,000.00

Name of Corporation	Made Through Commercial Banks	Made Direct to Borrowers	Made to Private Bankers
American Founders Corporation and Subsidiaries.....	Yes.....		
American & Foreign Power Company, Inc. and Subsidiaries.....	Yes.....		
American Can Company.....	Yes.....		
Anaconda Copper Mining Co.....	Yes.....		
Auburn Automobile Company.....	Yes.....		
Bethlehem Steel Corporation and Subsidiaries.....	Yes.....		
Chrysler Corporation.....			
Cities Service Company.....		Yes.....	
Consolidated Oil Corporation.....	Yes.....		
Electric Bond & Share Co. and Subsidiaries.....	Yes.....		
General Foods Corporation.....	Yes.....		
General Motors Corporation <sup>2</sup> .....	Yes.....		Yes (one).
International Nickel Co. Inc.....	Yes.....		
Pan American Petroleum & Transport Co.....	Yes.....		
Radio Corporation of America and Subsidiaries.....	Yes.....		
Radio-Keith-Orpheum Corporation.....	Yes.....		
Standard Oil Co. of N.J. and Subsidiaries.....		Yes.....	
Tri-Continental Corp. and Affiliated Corps.....	Partially.....	Partially.....	Yes.
The United Corporation.....			Yes.
The United Gas & Improvement Co. and Subsidiaries.....	Yes.....		

<sup>1</sup> Not answered.

<sup>2</sup> First loan placed Oct. 7, 1929.

<sup>3</sup> Cumulative figure of loans.

<sup>4</sup> Cumulative figure computed by multiplying daily average by number of days on which loans were outstanding.

## COMMITTEE EXHIBIT No. 93, FEBRUARY 23, 1934

AMERICAN CAN COMPANY,  
New York, November 2, 1933.

FERDINAND PECORA, Esq.,  
Counsel, Committee on Banking and Currency,  
285 Madison Avenue, New York, N.Y.

DEAR SIR: Pursuant to your letters of October 17 and October 26 addressed to the president of this company, I herewith furnish the following information in answer to the questionnaire contained in your first letter inquiring with reference to the transfers of stock.



## QUESTION A. AS OF JULY 31, 1929

Item 1.....	977, 035
Item 2.....	397
Item 3:	
1.....	115, 325
2.....	76, 898
3.....	61, 260
4.....	52, 700
5.....	34, 850
6.....	28, 924
7.....	20, 158
8.....	19, 400
9.....	18, 945
10.....	18, 049

## QUESTION B

Item 1.....	3, 926, 423
Item 2.....	57, 857

The following information is in answer to your questionnaire with respect to Street Loans.

## QUESTION A

Item 1: 374.

Item 2: Average amount outstanding during the year was \$9,424,000. Maximum amount outstanding at any one time was \$16,000,000. which was for a period of eight days only.

Item 3: Loans were effected through The First National Bank of New York at our request.

Yours very truly,

AMERICAN CAN COMPANY,  
R. A. BURGER, *Secretary.*

*American Can Co., 1929 call loans*

Month	Total number	Total amount	Average amount outstanding
January.....	72	\$32, 000, 000	\$14, 666, 000
February.....	13	5, 700, 000	11, 928, 000
March.....	4	1, 300, 000	11, 000, 000
April.....	43	15, 100, 000	11, 250, 000
May.....	41	16, 000, 000	12, 935, 000
June.....	7	2, 500, 000	6, 200, 000
July.....	11	5, 100, 000	4, 387, 000
August.....	15	6, 100, 000	4, 177, 000
September.....	39	15, 700, 000	7, 000, 000
October.....	79	32, 600, 000	10, 693, 000
November.....	38	12, 800, 000	9, 850, 000
December.....	12	4, 100, 000	9, 000, 000
Year.....	374	149, 000, 000	9, 424, 000

Maximum amount outstanding at any one time was \$16,000,000 which was for a period of eight (8) days only, January 17th-January 25th.

## COMMITTEE EXHIBIT No. 94, FEBRUARY 23, 1934

ANACONDA COPPER MINING COMPANY,  
*New York, February 21, 1934.*

FERDINAND PECORA, Esq.,  
*Counsel, Committee on Banking and Currency,*  
*285 Madison Avenue, New York, N.Y.*

Attention Mr. Paul Leebell

DEAR SIR: With further reference to your letters of October 16th and October 26th, 1933, and telephone conversation with Mr. Paul Leebell of your staff this date.

In answering questionnaire as to the total amount of street loans made by this corporation in the call money market of New York City, we assumed the total

amount had reference to the highest amount loaned at any one time, which amounted to \$32,500,000, as shown in reply to question No. 2 of the questionnaire.

In your telephone conversation today, you stated you wanted the gross sum to which all loans made would total, which includes duplications of moneys loaned where loans were made for a short time and repaid and then reloaned. This gross sum amounted to \$79,800,000.

We trust the foregoing gives you the information you desire.

Yours very truly,

ROBERT E. DWYER,  
Vice President.

ANACONDA COPPER MINING COMPANY,  
New York, November 23, 1933.

FERDINAND PECORA, Esq.,  
Counsel Committee on Banking and Currency,  
285 Madison Ave., New York, N.Y.

DEAR SIR: With our letter of November 13th we forwarded part of the data requested in your letters of October 16th and October 26th, 1933, and informed you that as soon as we received information pertaining to stock transfers from our Transfer Agent the same would be forwarded to you.

That information has now been received and we beg to enclose herewith answers to such of the questions contained in your questionnaire as were not answered in the data submitted with our letter of November 13, 1933.

Yours very truly,

ROBERT E. DWYER,  
Vice President.

#### QUESTIONNAIRE

B. Give the following information for the year 1929:

1. The total number of shares of the Common Stock of your Corporation transferred on your books from one ownership to another:  
12,940,717
2. The total number of transfers of the Common Stock of your corporation from one ownership to another:  
198,624

ANACONDA COPPER MINING COMPANY,  
New York, November 13, 1933.

FERDINAND PECORA, Esq.,  
Counsel Committee on Banking and Currency,  
285 Madison Ave., New York, N.Y.

DEAR SIR: Further referring to your letters of October 16th and October 26th, 1933.

We beg to enclose herewith the answers to the several questions contained in your questionnaire, except the total number of shares of common stock transferred on the books of the company from one ownership to another in 1929 and the number of transfers involved.

Upon receipt of your letter we requested the Transfer Agent to gather this information, which Transfer Agent has been engaged in obtaining similar information for your Committee on behalf of other corporations. They advise that they will be able to complete this information during the coming week and we shall endeavor to forward the same to you upon its receipt by us.

Yours very truly,

ROBERT E. DWYER,  
Vice President.

#### QUESTIONNAIRE

A. Give the following information as of July 1, 1929, and July 1, 1933:

1. The total number of shares of the Common Stock of your corporation appearing on your records in the names of stock brokerage firms:  
July 13, 1929, 3,439,318.  
April 21, 1933, 1,249,828.

2. The total number of brokers and brokerage firms appearing upon your records as the owners of Common Stock of your Corporation:

July 13, 1929, 620.

April 21, 1933, 562.

3. The total number of shares appearing upon your records in each of the names of brokers or brokerage firms who are the first ten largest broker holders of record of shares of Common Stock. Designation need not be made by name, but may be made by number, in order of numerical holdings:

July 13, 1929:

1.....	235, 289
2.....	96, 543
3.....	96, 388
4.....	92, 338
5.....	72, 726
6.....	71, 877
7.....	63, 386
8.....	62, 294
9.....	57, 643
10.....	55, 291

April 21, 1933:

1.....	146, 271
2.....	89, 465
3.....	40, 996
5.....	28, 676
5.....	26, 609
6.....	26, 536
7.....	24, 515
8.....	23, 153
9.....	21, 932
10.....	21, 594

#### QUESTIONNAIRE

A. Give the following data for the year 1929:

1. Total number of street loans made by your Corporation in the call money market of New York City:

\$147.

2. The total amount of the street loans made by your Corporation in the call money market of New York City:

\$32,500,000.

3. State the manner or method in which the loans made in the call money market in New York City were effected: whether effected through commercial banks, private banks, or other agency, describing the agency, or directly to the borrower:

All loans were made through commercial banks.

#### COMMITTEE EXHIBIT No. 95, FEBRUARY 23, 1934

LAW OFFICES PRUITT & GREALIS,

Chicago, November 28, 1933.

FERDINAND PECORA, Esquire,

Counsel, Committee on Banking & Currency,

285 Madison Avenue, New York, N.Y.

DEAR SIR: Mr. W. H. Beal, President of Auburn Automobile Company asked me to gather together the information and reply to your questionnaire. I am therefore writing to give you the following information:

A. 1. The records of the transfer office of Auburn Automobile Company show that on July 1, 1929 a total of 102,263 shares of the outstanding stock of the company were registered in the names of stock brokerage firms.

2. As of said date, the total number of brokers and brokerage firms appearing on the transfer records as the owners of stock of the Auburn Automobile Company was 208.

3. As of said date the total number of shares of stock of Auburn Automobile Company registered in the names of the brokerage firms who were the ten largest holders of record of shares of common stock were as follows:

	Shares		Shares
1.....	21, 669	7.....	2, 864
2.....	10, 200	8.....	2, 778
3.....	5, 029	9.....	2, 305
4.....	4, 789	10.....	1, 861
5.....	3, 797		
6.....	2, 868	Total.....	58, 160

B. 1. For the year 1929 the total number of shares of common stock of Auburn Automobile Company transferred on the books of the transfer office from one ownership to another was 584,652 shares.



2. For the said year the total number of transfers of the common stock of the corporation from one ownership to another was 17,059.

You have also asked for certain information regarding street loans in the call money market in New York City. The records of the corporation show that the total number of such street loans made was thirteen (13) and the total amount of the same \$1,600,000. All of these loans were made by Auburn Automobile Company through the Guaranty Trust Company of New York.

Yours very truly,

R. S. PRUITT,

*Secretary and General Counsel Auburn Automobile Company.*

RSP:MR

COMMITTEE EXHIBIT No. 96, FEBRUARY 23, 1934

BETHLEHEM STEEL CORPORATION,  
New York, N.Y., February 21, 1934.

Mr. FERDINAND PECORA,  
*Counsel, Committee on Banking and Currency, United States Senate,*  
285 Madison Avenue, New York, N.Y.

DEAR SIR: In accordance with the request of Mr. Leebell of your office, we confirm our statement made over the telephone to him today that the peak amount of street loans (including call and time loans) outstanding for our account at any one time in the year 1929 was \$157,450,000.

Very truly yours,

WM. J. BROWN, *Treasurer.*

BETHLEHEM STEEL CORPORATION,  
New York, N.Y., November 3, 1933.

DEAR SIR: Referring to your two letters of the 17th and 27th ult., respectively, enclosing questionnaires which you requested us to have filled out and returned to you, the answers to your questionnaire are as follows, the information requested in Section "A" being given as of July 19, 1929, which was the nearest date to July 1 as of which we had a stock list:

1. The total number of shares of the Common Stock of this Corporation appearing on our records in the names of stock brokerage firms was 1,108,115.

2. The total number of brokers and brokerage firms appearing upon our records as the owners of Common Stock of this Corporation was 517.

3. The total number of shares appearing upon our records in each of the names of brokers or brokerage firms who are the first ten largest broker holders of record of shares of Common Stock, designation being made by number, in order of numerical holdings, was as follows:

1.-----	31, 839	7.-----	19, 693
2.-----	29, 034	8.-----	18, 653
3.-----	23, 661	9.-----	18, 353
4.-----	22, 146	10.-----	17, 690
5.-----	21, 971		
6.-----	21, 655	Total-----	224, 695

For the year 1929:

1. The total number of shares of the Common Stock of this Corporation transferred on our books from one ownership to another was 6,340,165.

2. The total number of transfers of the Common Stock of this Corporation from one ownership to another was 144,679.

With reference to your other questionnaire regarding brokerage loans, I call your attention to my letter of October 23, 1933, inquiring as to the basis upon which the answers to that questionnaire were to be prepared. If I may have a reply to my letter of October 23 we will be able to give you the information desired promptly.

Very truly yours,

R. E. McMATH,  
*Vice President.*

Mr. FERDINAND PECORA,  
*Counsel Committee on Banking and Currency, United States Senate,*  
285 Madison Avenue, New York City.

BETHLEHEM STEEL CORPORATION,  
New York, N.Y., November 17, 1933.

Mr. FERDINAND PECORA,  
Counsel Committee on Banking and Currency, United States Senate,  
285 Madison Avenue, New York City.

DEAR SIR: Referring to my letters to you of the 23rd ult. and the 3rd instant regarding the questionnaires which you requested us to have filled out and returned to you:

I understand from a telephone conversation with a representative in your office that you wish the questionnaire regarding "street loans" answered in the form originally submitted, with the understanding that both time loans and call loans are to be included. Accordingly, I am enclosing a copy of your questionnaire, on the margin of which is noted the answers on behalf of this Corporation and of its subsidiaries, affiliates, etc. You will understand, of course, that, as pointed out in my letter of October 23rd, the loans referred to in the answers were not all outstanding at the same time, so that the total amount loaned, as reported in the questionnaire, very greatly exceeds the amount outstanding on any given date.

Very truly yours,

R. E. McMATH,  
Vice President.

#### QUESTIONNAIRE

A. Give the following data for the year 1929:

1. Total number of street loans made by your Corporation in the call money market of New York City.

911

2. The total amount of the street loans made by your Corporation in the call money market of New York City.

\$539,100,000.

In replying to (1) and (2) include the loans made by your Corporation and by any and all of its subsidiaries, holding companies, affiliates, or any other agency or entity under direct or indirect control and management of the parent corporation. The total amount so loaned by the parent corporation and its subsidiaries, holding companies, affiliates and other agency or legal entities under such direct or indirect control or management need only be given, without allocation to the particular entity.

3. State the manner or method in which the loans made in the call money market in New York City were effected. Whether effected through commercial banks, private banks, or other agency, describing the agency, or directly to the borrower.

Loans made for our account through commercial banks in New York City.

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#### COMMITTEE EXHIBIT No. 97, FEBRUARY 23, 1934

CHRYSLER CORPORATION,  
Detroit, Michigan, November 20, 1933.

FERDINAND PECORA, Esq.,  
Counsel, Committee on Banking and Currency,  
United States Senate, Washington, D.C.

DEAR MR. PECORA: With further reference to my letter of October 27th, you will find tabulated below the information required by you relative to this Company:

#### CAPITAL STOCK

Stock held by Brokers on July 1, 1929. No. of Brokers 556. Amount of Shares held 2,859,148.

*Ten Largest Holders*

1-----	436,091	6-----	65,740
2-----	120,773	7-----	58,965
3-----	120,715	8-----	58,829
4-----	119,647	9-----	45,613
5-----	33,719	10-----	44,176

Stock held by Brokers on July 1, 1933. No. of Brokers 440. Amount of Shares held 1,668,275.

*Ten Largest Holders*

1-----	255,329	6-----	34,190
2-----	109,610	7-----	32,109
3-----	49,734	8-----	31,047
4-----	38,313	9-----	29,716
5-----	35,096	10-----	26,901

7,207,052 Shares changed ownership during the year 1929; the number of transfers 109,614.

November 20, 1933.

## STREET LOANS

The making of street loans by this Corporation through New York banks in the call money market of New York City in the year 1929 continued all through the year. Some borrowers continued their loans from day to day over longer or shorter periods, subject to a rate of interest determined daily, others paid off and made new loans sometimes on the same day and in the same amount. The total amount of street loans varied from day to day. The loans were made through three banks. The largest amount through the first bank was on September 26th, when there were 114 loans amounting to \$60,150,000.00, and the least amount was on December 31st, when there were 35 loans amounting to \$7,500,000.00. The largest amount through the second bank was on October 9th, when there were 26 loans amounting to \$15,000,000.00, and the least amount was on December 31st, when there were 13 loans amounting to \$8,200,000.00. The largest amount through the third bank was on October 28th, when there were 33 loans amounting to \$15,400,000.00, and the least amount was from May 20th to September 18th, when there was one loan amounting to \$100,000.00.

Very truly yours,

B. E. HUTCHINSON,  
Vice President and Treasurer.

COMMITTEE EXHIBIT NO. 98, FEBRUARY 23, 1934

GENERAL FOODS CORPORATION,  
Postum Building, New York, November 6, 1933.

FERDINAND PECORA, Esq.,  
Counsel Committee on Banking & Currency,  
285 Madison Avenue, New York, N.Y.

DEAR SIR: As I stated to one of your assistants over the telephone, Mr. C. M. Chester, President of General Foods Corporation, has referred to this office your letter of October 17, 1933, enclosing questionnaires requiring certain data in connection with the pending investigation being conducted by the Senate Committee on Banking and Currency. Mr. Chester also has referred to us your supplementary letter of October 27, 1933.

Following are the answers to the questionnaire relating to *holdings by brokerage firms and to transfers of shares*:

"A. Give the following information as of July 1, 1929:

"1. The total number of shares of the Common Stock of your Corporation appearing on your records in the names of stock brokerage firms."

Answer: According to the list of stockholders of Postum Company, Incorporated taken by our transfer agent, The New York Trust Company, at July 15, 1929, which is the date nearest to July 1, 1929, for which these figures are readily available, there were 972,826 shares of Postum Company, Incorporated common stock in the hands of stock brokerage firms which, according to the New York Stock Exchange Directory, dated September, 1929, were member firms of the New York Stock Exchange located in New York City. Reference is made to the name "Postum Company, Incorporated" because the name of our corporation



was changed from Postum Company, Incorporated to General Foods Corporation, effective July 24, 1929.

"2. *The total number of brokers and brokerage firms appearing upon your records as the owners of Common Stock of your Corporation.*"

*Answer:* According to the list of stockholders referred to in the answer to question 1, there were 355 stock brokerage firms holding Postum Company, Incorporated common stock at July 15, 1929, the expression "stock brokerage firms" being limited to member firms of the New York Stock Exchange located in New York City, as shown in the New York Stock Exchange Directory dated September, 1929.

"3. *The total number of shares appearing upon your records in each of the names of brokers or brokerage firms who are the first ten largest broker holders of record of shares of Common Stock. Designation need not be made by name, but may be by number, in order of numerical holdings.*"

*Answer:* The ten largest of the broker holdings of Postum Company, Incorporated common stock referred to in the answer to question 2, were as follows:

1-----	129, 825	6-----	20, 951
2-----	111, 890	7-----	20, 505
3-----	38, 908	8-----	20, 301
4-----	24, 792	9-----	17, 397
5-----	23, 174	10-----	17, 331

"B. *Give the following information for the year 1929:*

"1. *The total number of shares of the Common Stock of your Corporation transferred on your books from one ownership to another.*"

*Answer:* According to our transfer agent, The New York Trust Company, the total number of shares of the common stock of this corporation transferred during the year 1929 was 5,067,653. So far as reasonably possible there have been eliminated from consideration mere exchanges of Postum Company, Incorporated certificates for General Foods Corporation certificates. The figure given is substantially the total number of shares transferred from one ownership to another, but it undoubtedly includes some cases where a number of certificates in one name were replaced by a single certificate issued in the same name and cases where a single certificate in one name was replaced by a number of certificates issued in the same name.

"2. *The total number of transfers of the Common Stock of your Corporation from one ownership to another.*

*Answer:* According to our transfer agent, The New York Trust Company, during the year 1929 a total of 145,276 new certificates was used by them in effecting transfers of our stock. The figure given includes all of the transfers of our stock from one ownership to another. It undoubtedly includes also some cases where a number of certificates in one name were replaced by a single certificate issued in the same name and cases where a single certificate in one name was replaced by a number of certificates issued in the same name. The figure also includes cases where stockholders surrendered Postum Company, Incorporated certificates for certificates in the new name of the corporation.

Following are answers to the questionnaire relating to street loans:

"A. *Give the following data for the year 1929:*

"1. *Total number of street loans made by your Corporation in the call money market of New York City.*"

*Answer:* The treasurer of General Foods Corporation advises that the total number of loans is not available. The loans were all made through banks, and the total number of transactions with the banks was 187.

"2. *The total amount of the street loans made by your Corporation in the call money market of New York City.*"

*Answer:* The total amount of street loans made by this corporation in the call money market of New York City in the year 1929 was \$36,000,000.00. The maximum amount outstanding in such market at any one time was \$3,400,000.00.

"3. *State the manner or method in which the loans made in the call money market in New York City were effected: Whether effected through commercial banks, private banks, or other agency, describing the agency, or directly to the borrower.*

*Answer:* The street loans referred to in the answers to questions 1 and 2 were effected through two commercial banks and one private bank doing business in New York City.

Very truly yours,

LESTER E. WATERBURY.

COMMITTEE EXHIBIT No. 99, FEBRUARY 27, 1934

GENERAL MOTORS CORPORATION,  
BROADWAY AT 57TH STREET,  
New York, N.Y., February 21, 1934.FERDINAND PECORA, Esq.,  
U.S. Committee on Banking & Currency,  
285 Madison Avenue, New York, N.Y.

Attention of Mr. Leebell.

DEAR MR. PECORA: Supplementing my letter of November 10, 1933 and confirming today's conversation with Mr. Leebell, the amount of street loans made by General Motors Corporation in the call loan market in New York City for the year 1929 was \$103,700,000.

We wish to call your attention, however, to the fact that the maximum amount of street loans outstanding in any one day in the year 1929 was \$25,000,000.

As shown in our letter to you under date of November 10, 1933, street loans were first placed by General Motors Corporation on October 7, 1929. The average daily amount of street loans outstanding from October 7, 1929 to December 30, 1929, inclusive, was \$17,417,647.

Yours very truly,

B. V. BORELLA,  
Assistant Treasurer.GENERAL MOTORS CORPORATION,  
BROADWAY AT 57TH STREET,  
New York, N.Y., November 10, 1933.FERDINAND PECORA, Esq.,  
Counsel Committee on Banking & Currency,  
285 Madison Avenue, New York City.

DEAR MR. PECORA: We are in receipt of your letter of November 8, 1933, to Mr. Alfred P. Sloan, Jr., President of General Motors Corporation, attaching a questionnaire requesting certain data in connection with the pending investigation by the Senate Committee on banking and currency.

In answer to your request for certain information as of July 1st, 1929, and July 1st, 1933, in regard to the total number of shares of the common stock appearing on our books in the names of stock brokerage firms, the number of brokers or brokerage firms appearing on the record, and a list showing the first ten largest broker holders of record, we beg to advise that the corporation took a record of its stockholders for common dividend purposes on May 18th and on August 17th, 1929, and May 11th and August 17th, 1933, and the information which you ask is available for the above dates and is attached hereto. We trust that this information will answer your purpose.

We are unable to furnish you the information requested for the year 1929 as to the total number of shares of common stock transferred on the books from one ownership to another, and the total number of transfers from one ownership to another, for the reason that the corporation does not keep such records, nor do we believe that this information could be obtained even if an attempt were made to examine the 524,400 entries on the 40,200 transfer sheets for the year 1929. From time to time, the corporation prepares a statement showing the distribution of the stock, and we are attaching hereto statement covering distribution as of February 16, 1929, and January 24, 1930.

The corporation makes a practice of computing the number of stockholders for each quarter and the number of holders of record for each quarter of the year 1929, are stated on the attached distribution sheet.

We are attaching hereto a schedule showing the number and amount of street loans made by the corporation in the call money market of New York City for the year 1929.

In addition, we are attaching a schedule covering the same information on General Motors Truck Corporation, a company which is wholly owned by Yellow Truck & Coach Manufacturing Company.

The loans were effected through commercial banks of New York City.

Very truly yours,

B. V. BORELLA,  
Assistant Treasurer.

*General Motors Corporation, common stock issued and outstanding, 43,500,000 par value \$10*

NUMBER OF SHARES HELD BY FIRST TEN LARGEST BROKER HOLDERS

May 18, 1929	May 11, 1933	August 17, 1929	August 17, 1933
415, 119	114, 381	458, 305	132, 641
372, 223	105, 278	351, 834	110, 981
254, 962	97, 610	262, 218	100, 643
215, 658	77, 656	218, 358	100, 184
212, 260	65, 890	185, 859	72, 330
171, 158	60, 599	162, 974	67, 142
169, 695	58, 530	156, 745	62, 368
169, 331	57, 741	154, 047	56, 227
153, 591	52, 733	153, 294	55, 022
145, 332	43, 413	144, 296	53, 400

NUMBER OF BROKERS

485	469	491	472
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NUMBER OF SHARES REGISTERED IN NAMES OF BROKERS

6, 432, 842	2, 702, 318	6, 091, 055	3, 165, 607
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*Statement showing comparison of the classifications of stockholders and shares held of the common stock of the General Motors Corporation at the close of business Feb. 16, 1929 and Jan. 24, 1930*

Classifications	Feb. 16, 1929		Jan. 24, 1930	
	Stock-holders	Shares	Stock-holders	Shares
1-10.....	24, 106	110, 958	99, 159	622, 083
11-20.....	12, 854	200, 203	34, 581	518, 308
21-50.....	20, 229	698, 146	45, 155	1, 513, 616
51-100.....	9, 504	760, 094	18, 281	1, 514, 804
101-200.....	6, 250	925, 498	10, 256	1, 299, 952
201-300.....	3, 069	774, 292	3, 606	798, 480
301-400.....	1, 165	422, 358	1, 888	528, 970
401-500.....	1, 168	562, 274	1, 586	715, 648
501-1,000.....	1, 823	1, 354, 388	1, 932	1, 321, 233
1,001-10,000.....	1, 933	5, 205, 089	1, 673	4, 380, 291
10,001-100,000.....	270	7, 717, 271	258	6, 697, 416
100,001-& over.....	44	24, 769, 429	38	23, 589, 194
	82, 415	43, 500, 000	218, 413	43, 500, 000

*Common-stock holders the fourth quarter of the year from 1917 to 1928 inclusive*

1917.....	894	1923.....	46, 567
1918.....	2, 103	1924.....	45, 217
1919.....	6, 245	1925.....	29, 792
1920.....	17, 025	1926.....	30, 210
1921.....	44, 640	1927.....	43, 116
1922.....	44, 049	1928.....	48, 169

*Common-stock holders for each quarter of 1929*

1st quarter.....	82, 451	3rd quarter.....	117, 767
2nd quarter.....	102, 306	4th quarter.....	176, 693



*General Motors Corporation, call loans, 1929*

Date	October	November	December
1		7,000,000	16,500,000
2		7,000,000	16,500,000
3		7,000,000	20,000,000
4		7,000,000	21,500,000
5		7,000,000	23,000,000
6		7,000,000	23,000,000
7		7,000,000	20,000,000
8	15,000,000	7,000,000	20,000,000
9	23,400,000	7,000,000	20,000,000
10	25,000,000	11,000,000	20,000,000
11	25,000,000	11,000,000	17,000,000
12	25,000,000	17,000,000	17,000,000
13	25,000,000	17,000,000	17,000,000
14	25,000,000	17,000,000	17,000,000
15	25,000,000	19,000,000	18,500,000
16	25,000,000	19,000,000	18,500,000
17	25,000,000	18,000,000	7,000,000
18	25,000,000	18,000,000	9,000,000
19	25,000,000	19,000,000	19,000,000
20	25,000,000	19,000,000	19,000,000
21	25,000,000	19,000,000	19,000,000
22	25,000,000	22,000,000	18,000,000
23	25,000,000	22,000,000	18,000,000
24	25,000,000	23,000,000	16,600,000
25	25,000,000	23,000,000	16,600,000
26	25,000,000	10,000,000	16,600,000
27	12,000,000	14,000,000	14,600,000
28	12,000,000	16,500,000	14,600,000
29	14,000,000	16,500,000	16,000,000
30	7,000,000	16,500,000	16,000,000
31	7,000,000	16,500,000	14,600,000
Total	520,400,000	440,000,000	520,100,000

In October, total number of loans placed	72
outstanding at end of month	15
In November, total number of loans placed	62
outstanding at end of month	36
In December, total number of loans placed	63
outstanding at end of month	none

*General Motors Truck Corporation, subsidiary of Yellow Truck & Coach Manufacturing Company*

## CALL LOANS

1929	No. of Loans	Loans Placed	Cumulative
Sept. 20	1	\$500,000	\$500,000
Sept. 21	1	500,000	100,000,000
Oct. 11	1	500,000	1,500,000
Oct. 16	1	500,000	2,000,000
Oct. 29		350,000	1,650,000
Nov. 29		1,650,000	
Total	4	2,000,000	

COMMITTEE EXHIBIT NO. 100, FEBRUARY 23, 1934

THE INTERNATIONAL NICKEL COMPANY OF CANADA, LIMITED,  
OFFICE OF THE PRESIDENT,  
New York, October 27, 1933.

FERDINAND PECORA, Esq.,  
285 Madison Avenue, New York City.

DEAR SIR: With reference to my letter of October 20th, 1933, I am submitting the following data concerning The International Nickel Company of Canada, Limited, a Canadian corporation, which has been compiled with a view to giving you as promptly as possible, and with the least expense to our shareholders, the

essential information requested. As an illustration of the foregoing, in connection with your Questionnaire respecting common stock, our United States Transfer Agent advised that the information asked for under A could be furnished fairly easily as of June 1st, 1929 (a dividend record date) and October 21st, 1933, whereas it would require considerable time and substantial additional expense to reconstruct the common stock records as of July 1st, 1929 and July 1st, 1933. I hope, however, that this, and any other slight deviations from the exact form of your Questionnaires, will be unimportant to you.

As was indicated in my previous letter, the stock record information furnished herewith is with respect only to the United States transfer agency of the Company.

Your questions are answered in the order in which they appear in your Questionnaires.

## COMMON STOCK

## Question A

	June 1, 1929	October 21, 1933		June 1, 1929	October 21, 1933
Item 1.....	5,054,779	2,441,732	Item 3.—Continued.		
Item 2.....	466	520	5.....	290,588	68,491
Item 3:			6.....	200,188	57,357
1.....	701,124	239,070	7.....	154,575	51,050
2.....	541,330	162,066	8.....	121,521	45,322
3.....	521,531	78,409	9.....	108,822	37,688
4.....	417,682	76,520	10.....	81,984	35,902

The above information is with respect only to brokers and brokerage firms having addresses within the United States.

## Question B

Year 1929

Item 1.....	9,676,800
Item 2.....	27,707

The figures given in answer to Question B include split-ups of stock in the same name; in other words, transfers which did not involve change of ownership.

## CALL LOANS

1. During 1929 we made fourteen (14) street loans in the call money market of New York City.

2. The total amount of these street loans was exactly Three Million Dollars (\$3,000,000).

3. All of these loans were effected through commercial banks in New York City, and at no time did we have any direct or indirect contact with the borrowers.

Trusting that the above will adequately serve your purpose,

Very truly yours,

RCS/WLM

—————, President.

THE INTERNATIONAL NICKEL COMPANY OF CANADA, LIMITED,  
OFFICE OF THE PRESIDENT,  
New York, February 21, 1934.

FERDINAND PECORA, Esq.,  
285 Madison Avenue, New York, City.

DEAR SIR: Confirming telephone conversation with Mr. Leebell this afternoon and referring to my letter of October 27th, 1933 I beg to advise you that the largest amount of any one of the fourteen (14) street loans made in the call money market of New York City during 1929 was \$500,000. As Mr. Leebell was advised this figure does not take into account the amount of loans previously made to the debtor bank in question.

Yours very truly,

R. C. STANLEY,  
President.

RCS/JJS

COMMITTEE EXHIBIT No. 101, FEBRUARY 23, 1934

PAN AMERICAN PETROLEUM & TRANSPORT COMPANY  
AND SUBSIDIARY COMPANIES,  
New York, February 21, 1934.

Mr. PAUL LEEBELL,  
United States Senate Committee on Banking and Currency,  
New York, N.Y.

DEAR SIR: Confirming our conversation today with your Mr. Leebell regarding street loans made and outstanding during the year 1929, we desire to confirm that the total amount of street loans made during 1929, from October 9th to December 31st, was \$9,500,000. The peak amount outstanding at any one time during this period amounted to \$8,000,000.

This is the information as requested and we believe the same to be correct.

Yours very truly,

PAN AMERICAN PETROLEUM & TRANSPORT COMPANY,  
A. N. PENN, Asst. Secty. & Asst. Treas.

PAN AMERICAN PETROLEUM & TRANSPORT COMPANY  
AND SUBSIDIARY COMPANIES,  
New York, October 28, 1933.

Mr. FERDINAND PECORA,  
Counsel United States Senate,  
Committee on Banking and Currency,  
New York, N.Y.

Subject: Pan American Petroleum & Transport Company.

DEAR MR. PECORA: Next below we are supplying information as called for in questionnaire transmitted to me with your letter of October 17th:

Question A-1. The total number of shares of the Common Stock of your Corporation appearing on your records in the names of stock brokerage firms, as of July 1, 1929.

Common Stock	Shares
Class "B" Common Stock	165, 584
	1, 214, 689

Total	1, 380, 273
-------	-------------

Question A-2. The total number of brokers and brokerage firms appearing upon your records as the owners of Common Stock of your Corporation, as of July 1, 1929.

Five hundred and forty (540) (Including Common and Class "B" Common Stock.)

Question A-3. The total number of shares appearing upon your records in each of the names of brokers or brokerage firms who are the first ten largest broker holders of record of shares of Common Stock, as of July 1, 1929. Designation need not be made by name, but may be by number, in order of numerical holdings.

1	67, 436	7	29, 136
2	49, 609	8	29, 124
3	37, 429	9	28, 752
4	35, 695	10	26, 862
5	32, 628		
6	30, 068		366, 739

QUESTION B-1. The total number of shares of the Common Stock of your Corporation transferred on your books from one ownership to another, during the year 1929.

Common Stock	Shares
Class "B" Common Stock	1, 287, 408
	4, 586, 468

Total	5, 873, 876
-------	-------------



QUESTION B-2. The total number of transfers of the Common Stock of your Corporation from one ownership to another, during the year 1929.

Common Stock	Shares
Class "B" Common Stock	3,064
	20,202
Total	23,266

QUESTION A-1. Total number of street loans made by your Corporation in the call money market of New York City, during the year 1929.

This question cannot be answered. See attached letter from Chase National Bank in which they state that the records of the Equitable Trust Company, which would enable them to give us the answer to this question, have been destroyed.

QUESTION A-2. The total amount of the street loans made by your Corporation in the call money market of New York City.

In view of the fact that the records of the Equitable Trust Company have been destroyed, we can only answer this question by saying that the largest amount which we had in street loans during 1929 was \$8,000,000. This was the highest figure standing on the ledger during 1929, and ran from December 17th to 31st, inclusive.

QUESTION A-3. State the manner or method in which the loans made in the call money market in New York City were effected: whether effected through commercial banks, private banks, or other agency, describing the agency, or directly to the borrower.

All of our loans were effected through a commercial bank viz: the Equitable Trust Company of New York, which has since been consolidated with the Chase National Bank of the City of New York.

Yours very truly,

PAN AMERICAN PETROLEUM & TRANSPORT COMPANY,  
L. BLANSTON, *President*.

#### COMMITTEE EXHIBIT No. 102, FEBRUARY 23, 1934

RADIO CORPORATION OF AMERICA,  
*RCA Building, New York, November 8, 1933.*

MR. FERDINAND PECORA,  
*Counsel Committee on Banking and Currency,  
New York City.*

MY DEAR MR. PECORA: Will you please refer to your letter of October 16, 1933 requesting certain data and to your supplemental letter of October 26, 1933, modifying the dates as of which the information was to be stated.

The information requested is herewith submitted.

Very truly yours,

MANTON DAVIS.

THE CORPORATION TRUST COMPANY  
*New York, N.Y., November 8, 1933.*

MR. L. MACCONNACH,  
*Secretary Radio Corporation of America,  
New York, N.Y.*

DEAR MR. MACCONNACH: We submit below the data called for by the questionnaire which you recently turned over to us—assembled from your common stockholders' lists of April 13, 1929, and April 12, 1933:

A. Give the following information as of July 1, 1929, and July 1, 1933:

	1929	1933
1. The total number of shares of the common stock of your Corporation appearing on your records in the names of stock brokerage firms	3, 107, 002	2, 304, 401
2. The total number of brokers and brokerage firms appearing upon your records as the owners of common stock of your Corporation	607	1, 367

3. The total number of shares appearing upon your records in each of the names of brokers or brokerage firms who are the first ten largest broker holders of record of shares of common stock. Designation need not be made by name, but may be made by number, in order of numerical holdings-----

1929	1933
228, 589	65, 585
191, 203	52, 882
123, 565	52, 300
117, 106	51, 437
100, 265	48, 254
96, 076	45, 324
87, 456	43, 135
86, 025	42, 970
81, 380	42, 677
78, 812	41, 181

B. Give the following information for the year 1929:

1. The total number of shares of the common stock of your Corporation transferred on your books from one ownership to another-- 9, 853, 280
2. The total number of transfers of the common stock of your corporation from one ownership to another----- 120, 565

While the data submitted above has been compiled with the greatest care by trained members of our Transfer Department staff, it must be considered but approximately correct, inasmuch as we accepted your instruction to dispense with the detail of a re-check.

Very truly yours,

The CORPORATION TRUST COMPANY,  
B. S. MANTZ, Vice President.

*Radio Corporation of America and subsidiaries: Call loans made during 1929*

Amount of Street Loans outstanding at—	Banks through which Loans were effected							
	Bankers Trust Company		National Bank of Commerce		New York Trust Co.		TOTAL	
	Amount of Call Loan	Amount of Loan Recalled	Amount of Call Loan	Amount of Loan Recalled	Amount of Call Loan	Amount of Loan Recalled	Amount of Call Loan	Amount of Loan Recalled
January 1, 1929-----	\$9, 500, 000	-----	\$5, 600, 000	-----	\$300, 000	-----	\$15, 400, 000	-----
January 3, 1929, Loan made-----	-----	-----	-----	-----	200, 000	-----	200, 000	-----
January 10, 1929, Loan recalled-----	-----	\$800, 000	-----	-----	-----	-----	-----	\$800, 000
January 11, 1929, Loan recalled-----	-----	200, 000	-----	-----	-----	-----	-----	200, 000
January 14, 1929, Loan made-----	1, 000, 000	-----	-----	-----	-----	-----	1, 000, 000	-----
January 17, 1929, Loan made-----	1, 000, 000	-----	-----	-----	-----	-----	1, 000, 000	-----
January 22, 1929, Loan recalled-----	-----	500, 000	-----	-----	-----	-----	-----	500, 000
February 2, 1929, Loan made-----	-----	-----	1, 000, 000	-----	-----	-----	1, 000, 000	-----
February 4, 1929, Loan recalled-----	-----	-----	-----	\$6, 500, 000	-----	\$500, 000	-----	7, 000, 000
February 7, 1929, Loan recalled-----	-----	-----	-----	100, 000	-----	-----	-----	100, 000
February 9, 1929, Loan recalled-----	-----	10, 000, 000	-----	-----	-----	-----	-----	10, 000, 000
	11, 500, 000	11, 500, 000	6, 600, 000	6, 600, 000	500, 000	500, 000	18, 600, 000	18, 600, 000

NOTE: All Street Loans were discontinued on Feb. 9, 1929 and no other Street Loans made during balance of 1929.

COMMITTEE EXHIBIT NO. 103, FEBRUARY 23, 1934

IRVING TRUST COMPANY,  
RECEIVER IN EQUITY OF  
RADIO-KEITH-ORPHEUM CORPORATION,  
1270 Sixth Avenue, New York, October 27, 1933.

FERDINAND PECORA, Esq.,  
*Counsel, Committee on Banking and Currency,*  
285 Madison Avenue, New York, N.Y.

Re: Radio-Keith-Orpheum Corporation.

Att: Mr. Schenker.

DEAR SIR: Your letter of October 17, 1933, addressed to Mr. Merlin H. Aylesworth, President, Radio-Keith-Orpheum Corporation, relating to certain data desired by the Committee on Banking and Currency has been referred to us for acknowledgment.

We are writing to inform you that Irving Trust Company was appointed receiver in equity of Radio-Keith-Orpheum Corporation by orders dated January 27 and February 17, 1933, made by the District Court of the United States for the Southern District of New York, and that the business of said corporation is being continued by Irving Trust Company pursuant to orders of said Court.

The assets of Radio-Keith-Orpheum Corporation, a holding company, consist almost entirely of stocks and obligations of subsidiary companies which have been pledged to secure certain obligations of the corporation. The cash position of the corporation is extremely weak and its ability to raise funds for any purpose severely restricted.

As we advised you by telephone on October 25th, 1933, it would be extremely difficult for the corporation to meet in full the request for information contained in the questionnaire enclosed with your letter of October 17th. The transfer agent, Commercial National Bank & Trust Company, has stated that in order to supply the data covered by the questionnaire with respect to the shares of common stock in the names of stock brokerage firms, the total number of brokers and brokerage firms appearing as owners of such common stock, the total number of shares transferred during the year 1929 and the total number of transfers of such stock from one ownership to another, a cost of approximately \$1,000 would be incurred. In addition, before any such expenditure could be incurred, it would be necessary to obtain authority from the District Court under whose jurisdiction the receivership is being conducted. At your request, we communicated with the Transfer Agent and requested them to advise you if this data could be supplied as of some other date and what cost would be involved.

On our instructions, the data requested relating to street loans has been compiled by the Accounting Department of the corporation without any substantial expense, and this information is attached hereto.

Accordingly, we hope that you will notify us that it will be unnecessary to consider further the matter of supplying the information as to which substantial expense would be incurred, or to take up with the District Judge in charge of this case the question of making such expenditure, in view of the severely limited cash resources of the estate.

Very truly yours,

IRVING TRUST COMPANY  
(Receiver in Equity),  
By A. H. McCausland.

A. Give the following data for the year 1929:

1. *Total number of street loans made by your Corporation in the call money market in New York City.*—Radio-Keith-Orpheum Corporation, its subsidiaries and affiliates invested in the call money market through four commercial banks in New York City. Such banks made periodical returns to the corporation of the interest earned on such investments but only in one instance did the bank report in detail the number of such street loans. This particular bank, Commercial National Bank and Trust Company of New York reported to the corporation each loan when called and each new loan when made.

2. *The total amount of the street loans made by your Corporation in the call money market in New York City.*—The largest amount of money invested in the call money market by Radio-Keith-Orpheum Corporation, its subsidiaries and affiliates was in March, 1929, when \$8,000,000 was so invested. This amount changed from time to time during the balance of the year 1929 and at the end of such year \$900,000 was so invested.



3. State the manner or method in which the loans made in the call money market in New York City were effected; whether effected through commercial banks, private banks or other agency, describing such agency, or directly to the borrower.—Loans made in the call money market in New York City were effected through four commercial banks which were instructed to invest in call loans for the account of the Corporation, its subsidiaries and affiliates. Such four commercial banks were as follows:

The Chase National Bank of the City of New York  
The Commercial National Bank and Trust Company of New York  
The Bank of America National Association  
Empire Trust Company

285 MADISON AVENUE, NEW YORK, N.Y., October 17, 1933.

MR. MERLIN H. AGLESWORTH,

*Pres. Radio-Keith-Orpheum Corp., 1564 Broadway, New York, N.Y.*

DEAR MR. AGLESWORTH: As counsel for the Senate Committee on Banking and Currency in its pending investigation, I send you herewith enclosed a questionnaire requesting certain data.

I am resorting to this means of obtaining the information because I believe it is a speedier and more convenient method than compelling attendance and the production of books and records before the Committee in Washington, D.C.

I earnestly trust that I shall have the cooperation of your institution in this matter so that I may be in a position to submit a compilation and analysis of this information to the Committee by November 6th.

Will you not inform me immediately whether you intend to comply with this request and furnish the required data in due time?

Sincerely yours,

FERDINAND PECORA,  
*Counsel Committee on Banking and Currency.*

COMMITTEE EXHIBIT NO. 104, FEBRUARY 23, 1934

TRI-CONTINENTAL CORPORATION,  
*New York, November 2, 1933.*

FERDINAND PECORA, Esq.,

*Counsel Committee on Banking and Currency.*

*285 Madison Avenue, New York.*

DEAR MR. PECORA: Referring to your letter of October 26, 1933, and questionnaire regarding Street loans made by this Corporation in the call money market in New York City in 1929, we would advise you as follows:

1. During the year 1929, this Corporation and its affiliated Corporation, Tri-Continental Allied Company, Incorporated, made such Street loans to 209 borrowers, in all but a few cases members of the New York Stock Exchange. The amount of the loans to these borrowers increased or decreased from time to time according to the amounts of cash which our corporations had free for this purpose and the individual requests of the borrowers, on some occasions their loans being paid off in full and reinstated at a later date.

2. The maximum amount of such Street loans by the two corporations at any one time outstanding was \$62,150,000; the minimum at any one time outstanding \$5,000,000; and the average amount during the year was \$29,268,624.64. This average is computed by taking the aggregate amount of loans outstanding at the close of each day and dividing that aggregate by 349, the total number of days subsequent to January 16, 1929, during which our corporations had call loans outstanding.

3. These loans were made through commercial banks and/or a New York Stock Exchange house.

Our own records do not have the complete details of all the loans but we have been able to ascertain what our records lacked from the banks and Stock Exchange house which acted as our loaning agencies. We shall be glad to furnish you with such additional data regarding these loans as you may desire.

Very truly yours,

TRI-CONTINENTAL CORPORATION,  
By FRANCIS F. RANDOLPH, *President.*

TRI-CONTINENTAL CORPORATION,  
New York, February 20, 1934.

PAUL LEIVELL, Esq.

United States Senate, Committee on Banking and Currency,  
285 Madison Avenue, New York, N.Y.

DEAR MR. LEIVELL: Confirming telephone conversation with you today and supplementing information contained in Mr. Randolph's letter dated November 2, 1933, to Mr. Pecora I am pleased to give you the following data taken from the records in our office with regard to questions number 1 and 2 of the questionnaire attached to Mr. Pecora's letter of October 26, 1933:

Tri-Continental Corporation made loans on call on sixty-two days during the year 1929. Adding the total of such loans on said days makes an aggregate of \$131,325,000 of call loans made from time to time during the year. Call loans were paid off on 145 days during the year, and the aggregate amount of said payments was \$118,925,000.

Tri-Continental Allied Company, Incorporated, Tri-Continental Corporation's affiliated company, made loans on call on eighteen days during the year 1929. Adding the total of such loans on said days makes an aggregate of \$87,925,000 of call loans made from time to time during the year. Call loans were paid off on forty-two days during the year, and the aggregate amount of said payments was \$86,525,000.

Each of the two corporations mentioned had an initial capital of \$50,000,000 and had no borrowed money. It is evident, therefore, that the above figures include large amounts of loans which were made in substitution for loans that were repaid.

Very truly yours,

TRI-CONTINENTAL CORPORATION,  
PAUL BARTHOLET, *Comptroller*.

COMMITTEE EXHIBIT No. 105, FEBRUARY 23, 1934

THE UNITED CORPORATION,  
Wilmington, Delaware, October 31, 1933.

HONORABLE FERDINAND PECORA,

Counsel, United States Senate Committee on Banking and Currency,  
285 Madison Avenue, New York, N.Y.

DEAR MR. PECORA: I have caused to be prepared and hand you herewith the data as to The United Corporation, asked for in the Questionnaire enclosed with your letter of October 17, 1933.

As suggested in your further letter of October 26, 1933, the reply to Questions A-1, 2 and 3 is as of July 10 for the year 1929.

In 1929, The United Corporation had several small subsidiaries, all inactive, which were the only corporations under the direct or indirect control and management of The United Corporation. No loans were made by any such subsidiary. In consequence the information in regard to loans applies only to The United Corporation.

Very truly yours,

GEORGE H. HOWARD.

The United Corporation, information in reply to questionnaire from the United States Senate Committee on Banking and Currency

	As of July 10, 1929	As of July 1, 1933
Question A:		
1. Total Number of Shares of Common Stock in the Names of Brokers and Brokerage Firms.....	1,493,951	2,202,246
2. Total number of brokers and brokerage firms appearing on records as owners of Common Stock.....	553	398
3. Brokers and Brokerage firms who are the ten largest Broker holders of record of shares of Common Stock.....	(1)	(2)
Question B:		
1. The total number of shares of Common Stock transferred from one ownership to another during the year 1929 was.....	40,757,810	-----
2. The total number of transfers of Common Stock from one ownership to another during the year 1929 was.....	111,658	-----

<sup>1</sup> No. 1, 53,307; No. 2, 31,949; No. 3, 30,400; No. 4, 28,224; No. 5, 26,238; No. 6, 22,737; No. 7, 21,486; No. 8, 21,309; No. 9, 19,893; No. 10, 18,999.

<sup>2</sup> No. 1, 117,455; No. 2, 64,963; No. 3, 59,460; No. 4, 49,169; No. 5, 47,331; No. 6, 43,022; No. 7, 41,211; No. 8, 39,108; No. 9, 38,824; No. 10, 37,996.

## QUESTIONNAIRE NO. 2

Question A-1, 2, and 3.—The United Corporation did not make directly any street loans in the call money market of New York City during the year 1929. However, on January 25, 1929, The United Corporation obtained an interest through J. P. Morgan & Co. to the extent of \$7,400,000 in six such loans. These loans were repaid as follows:

January 30, 1929-----	\$2, 500, 000
February 5, 1929-----	500, 000
February 9, 1929-----	3, 000, 000
February 18, 1929-----	1, 400, 000
Total-----	7, 400, 000

THE UNITED CORPORATION,  
Wilmington, Del., November 17, 1933.

HONORABLE FERDINAND PECORA,  
Counsel, United States Senate Committee on Banking and Currency,  
285 Madison Avenue, New York, N.Y.

DEAR SIR: Your associate, Mr. Ellis, telephoned me with reference to the 40,757,810 shares of stock of The United Corporation transferred during the year 1929, and asked if I knew why so many shares were transferred. I have inquired of the transfer agent, and I can suggest no reason other than the very large volume of transactions in many stocks during the year 1929 resulting from the general speculative conditions throughout the world in the early part of that year and the panic that fall.

Yours very truly,

GEORGE H. HOWARD.

## COMMITTEE EXHIBIT NO. 106, FEBRUARY 23, 1934

THE UNITED GAS IMPROVEMENT CO.  
Philadelphia, October 25, 1933.

FERDINAND PECORA, Esq.,  
Counsel, Committee on Banking and Currency,  
No. 285 Madison Avenue, New York, N.Y.

DEAR MR. PECORA: Supplementing my letter of October 19th, enclosed please find this Company's answers to the questionnaires in reference to transfers, etc., of our Common Stock and loans made by this Company or subsidiaries in the call money market in New York City.

Yours very truly,

THE UNITED GAS IMPROVEMENT COMPANY,  
JOHN E. ZIMMERMANN, President.

## THE UNITED GAS IMPROVEMENT COMPANY

## ANSWERS TO QUESTIONNAIRE OF COMMITTEE ON BANKING AND CURRENCY UNITED STATES SENATE

"A. Give the following data for the year 1929:

1. Total number of street loans made by your Corporation in the call money market of New York City."

Ans. During the year 1929 The United Gas Improvement Company loaned no money on call in the New York call money market.

Subsidiaries of The United Gas Improvement Company made 53 such loans.

"2. The total amount of the street loans made by your Corporation in the call money market of New York City."

Ans. The maximum amount loaned at any one time by subsidiaries of The United Gas Improvement Company was \$3,600,000.

"3. State the manner or method in which the loans made in the call money market in New York City were effected: whether effected through commercial banks, private banks, or other agency, describing the agency, or directly to the borrower."

Ans. All loans were effected through National Banks and Trust Companies.



## COMMITTEE EXHIBIT No. 107, FEBRUARY 23, 1934

AMERICAN FOUNDERS CORPORATION,  
New York, November 6, 1933.

FERDINAND PECORA, Esq.,

*Counsel Committee on Banking and Currency, United States Senate,  
285 Madison Avenue, New York City.*

DEAR MR. PECORA: In answer to your letter of October 26, 1933 we submit herewith answers to the questionnaire with respect to street loans made by this Corporation in the New York City call money market during the year 1929.

Our replies include loans made by this Corporation and the following controlled subsidiaries: International Securities Corporation of America, Second International Securities Corporation, United States & British International Company, Ltd., American & General Securities Corporation and Founders General Corporation.

Answer to Question 1. The total number of street loans made in the call money market during 1929 was 1,583 loans. Each loan made to a broker, regardless of the length of time for which the loan may have run, has been treated as a separate loan and counted accordingly.

Answer to Question 2. The amount placed in the call money market during 1929 averaged \$23,629,166.66. The largest loan was \$5,000,000., the smallest loan was \$25,000.

Answer to Question 3. All loans made in the call money market in New York City were effected for the account of this Corporation and its subsidiaries through commercial banks.

We trust this is the information you desire.

Yours very truly,

L. H. SEAGRAVE, *President.*

AMERICAN FOUNDERS CORPORATION,  
New York, February 21, 1934.

FERDINAND PECORA, Esq.,

*Counsel Committee on Banking and Currency, United States Senate,  
285 Madison Ave., New York City.*

DEAR MR. PECORA: Supplementing our letter of November 6, 1933, we wish to advise that the sum total of all of the 1,583 separate street loans made in the call-money market during 1929 and reported by us in answer to question no. 1 aggregated \$424,450,000.

We did not believe this figure was of any particular significance as a given amount of money may have been placed on loan and called and then reloaned a number of times, and the figure is merely a total of all the different loans, and we therefore reported to you the average amount of money placed in the call-money market during 1929 by us and our controlled subsidiaries of \$23,629,166.66.

We trust this is the information you require.

Very truly yours,

L. H. SEAGRAVE.

## COMMITTEE EXHIBIT No. 109, FEBRUARY 23, 1934

*Schedule C*

	1929	1930	1931	1932	1933
Committee on publicity:					
Salaries and wages.....	\$45,951.96	\$53,020.20	\$52,893.64	\$46,514.64	\$28,750.00
President's speeches.....	16,788.44	36,799.74	64,449.00	12,942.50	1,357.00
President's annual report.....	16,084.18	18,422.65	13,988.20	16,597.50	
Year Books, miscellaneous, other publications, gallery pamphlets, motion-picture expenses, postage, etc.....	55,091.21	84,299.96	107,924.56	89,669.84	32,628.97
Total.....	133,915.79	192,542.55	239,255.40	165,724.48	62,735.97
Office of economist:					
Salaries and wages.....	34,510.66	45,941.62	44,203.55	38,879.67	28,320.90
Stationery supplies, books, subscriptions, etc.....	6,419.66	5,480.74	1,404.99	1,835.10	1,913.64
Total.....	40,930.32	51,422.36	45,608.54	40,714.77	30,234.54
Subtotal.....	174,846.11	243,964.91	284,863.94	206,439.25	92,970.51

NOTE.—The expense of publication of statistical data prepared by the Department of the Economist is included in the expense of the Committee on Publicity.



## STOCK EXCHANGE PRACTICES

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MONDAY, FEBRUARY 26, 1934

UNITED STATES SENATE,  
COMMITTEE ON BANKING AND CURRENCY,  
*Washington, D.C.*

The committee met at 10:30 a.m., pursuant to adjournment on Friday, February 23, 1934, in room 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman) and Adams.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee; and Roland L. Redmond, attorney for the New York Stock Exchange.

The CHAIRMAN. The committee will come to order, please.

I believe Mr. Harris was on the stand when we adjourned Friday.

Mr. PECORA. Mr. Harris, please resume the stand.

### TESTIMONY OF GEORGE U. HARRIS, MEMBER OF BROKERAGE FIRM OF HARRIS, UPHAM & CO., AND MEMBER PUBLICITY COMMITTEE NEW YORK STOCK EXCHANGE—Resumed

Mr. PECORA. Now, Mr. Harris, you testified, in substance, last Friday, before this committee to the effect that the committee on publicity had caused to be distributed many thousands of copies of different pamphlets that deal with various subjects.

Mr. HARRIS. Yes, sir.

Mr. PECORA. Who selected those pamphlets for such distribution?

Mr. HARRIS. Just which pamphlets are you referring to?

Mr. PECORA. All of them.

Mr. HARRIS. Well, among others there were various speeches of the president of the exchange.

Mr. PECORA. Yes; we know that.

Mr. HARRIS. Which he has written, and they have been distributed.

Mr. PECORA. Yes. But who selected the pamphlets that were to be used for general public distribution by the exchange?

Mr. HARRIS. Well, the committee on publicity has put out all documents that they thought would be of real interest to the general public.

Mr. PECORA. Well, did the committee on publicity decide what pamphlets would be of general interest to the public, or did that committee follow the judgment of anyone else with regard to that matter?

Mr. HARRIS. That matter is usually handled by the president's office.



Mr. PECORA. Then, do you mean by that answer that the committee on publicity, as such committee of the exchange, such documents, pamphlets, or books as the president of the exchange thought should be put out to the public?

Mr. HARRIS. That is correct.

Mr. PECORA. And the committee itself did not exercise any independent judgment about those things.

Mr. HARRIS. No, sir.

Mr. PECORA. I beg pardon, but I did not catch your answer.

Mr. HARRIS. No; they did not.

Mr. PECORA. And that is true of the way the committee on publicity has functioned ever since you have been a member of it, which as I recall is for the past 4 years?

Mr. HARRIS. Yes. I stated before that I had been a member of the committee for 4 years. That was an error. My dates are wrong. It is about 2 years. But since I have been a member of the committee all documents have been put out in that manner.

Mr. PECORA. And were you in error when you said you were a member of the governing board for 4 years past?

Mr. HARRIS. No; that was correct.

Mr. PECORA. That answer is correct?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Have you read the various pamphlets that have been circulated among the public by the New York Stock Exchange in the last 2 years, since you have been a member of its committee on publicity?

Mr. HARRIS. I cannot say that I have read every pamphlet carefully, but I know the contents of all pamphlets, and I have read the most of them.

Mr. PECORA. What pamphlets were put out during the year 1931?

Mr. HARRIS. Would you like a detailed list of them?

Mr. PECORA. Yes.

Mr. HARRIS. In 1931 there were distributed:

The Place of the Stock Exchange in American Business. It was an address by the president.

Measuring the Stock Market. An address by Mr. Meeker, an economist.

Public Opinion and the Stock Market. An address by the president.

Business Honesty. An address by the president.

Statement on Investment Trusts (Management Type) Special Requirements Where Listing Investment Trust Securities.

Report of the president.

Economic Law in Business. An address by the president.

The Stock Exchange and Investment Trusts. An address by George L. Tirrell, chief examiner of the committee on stock list.

Short Selling. An address by the president.

Short Selling and Liquidation. An address by the president.

Statistics in Regard to Short Selling.

New York Stock Exchange Year Book.

Mr. PECORA. If I have kept a correct tally of the publications you have referred to, there were 15 of them that were put out during the year 1931. Is that correct?

Mr. HARRIS (counting them). I think there are only 12.

Mr. PECORA. Well, I will take your figures. Perhaps I jotted down portions of titles as being a full title. There were 12, then.

Mr. HARRIS. Yes, sir.

Mr. PECORA. Have you read those 12?

Mr. HARRIS. Yes, sir.

Mr. PECORA. When?

Mr. HARRIS. Oh, I beg pardon. I misunderstood your question. Have I read all 12 of those?

Mr. PECORA. Yes.

Mr. HARRIS. I would not say that I have read all 12 of them.

Mr. PECORA. How many of the 12 have you read?

Mr. HARRIS. I would say I have read 50 percent of them, or six.

Mr. PECORA. You have read six of them.

Mr. HARRIS. Yes, sir.

Mr. PECORA. How many of the different pamphlets or publications were distributed by the stock exchange to the public in the year 1932?

Mr. HARRIS. Six pamphlets.

Mr. PECORA. Can you give the titles of them?

Mr. HARRIS. Yes, sir. Those distributed in 1932 were:

Statement of Richard Whitney, president.

Statement of Richard Whitney, president, before the Committee on Finance of the United States Senate.

Statement of Richard Whitney, president, made to the governing committee and the membership.

New York Stock Exchange, address by the president.

Report of the president.

New York Stock Exchange Year Book.

Mr. PECORA. Are you familiar with the contents of those six pamphlets or publications?

Mr. HARRIS. I was at the time.

Mr. PECORA. Did you read all six of them?

Mr. HARRIS. I think I have read all six of those; yes.

Some time has passed and I don't remember now all of their contents.

Mr. PECORA. Now, in 1933 how many pamphlets, documents, or publications were distributed to the public by the New York Stock Exchange?

Mr. HARRIS. Three altogether, as follows:

Writing Down Assets and Writing Off Losses.

Securities Investors in the Future.

Statement of Richard Whitney, president.

Mr. PECORA. Did you read those?

Mr. HARRIS. I believe I only read one of them entirely.

Mr. PECORA. Which one was that?

Mr. HARRIS. The Statement of Richard Whitney, president. No; I read two of them, which includes Securities Investors in the Future. So I read two of the three.

Mr. PECORA. Which one was it that you did not read?

Mr. HARRIS. I did not read the one entitled "Writing Down Assets and Writing Off Losses", being an address by Mr. Hoxsey.

Mr. PECORA. Now, in 1930, how many different pamphlets, documents, or publications, were circulated among the public by the New York Stock Exchange?

Mr. HARRIS. There were 13 altogether. They were:

The Principal Causes of the Stock Market Crisis of 1929—  
Mr. PECORA (interposing). Whose address was that?

Mr. HARRIS. An address by Mr. E. H. H. Simmons, who was then the president of the New York Stock Exchange.

Mr. PECORA. Was that the one delivered in January of 1930 before the Transportation Club?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Have you read that address?

Mr. HARRIS. That was some time ago, but I think I did read it. I have forgotten the details of it.

Mr. PECORA. Have you any recollection of the contents of that speech that would enable you to summarize it for the benefit of this committee now, as to what Mr. Simmons' claimed were the causes of the stock market panic of 1929?

Mr. HARRIS. I am sorry, but I cannot remember the details of that speech.

Mr. PECORA. All right. Now, Mr. Harris, how many of the 13 pamphlets, speeches, or publications that were distributed in 1930 have you read?

Mr. HARRIS. Mr. Pecora, it is very difficult for me to say now as to that. That was 3 years ago and I would not want to guess at it. I don't know.

Mr. PECORA. Would you guess that you read all of them?

Mr. HARRIS. I do not think I read all of them, but I may have.

Mr. PECORA. How many different pamphlets, documents, or publications were circulated by the stock exchange in 1929?

Mr. HARRIS. Eleven altogether.

Mr. PECORA. How many of them have you read, if you can tell us?

Mr. HARRIS. I cannot tell you. It was too long ago.

Mr. PECORA. Now, in 1929, according to the information furnished by the New York Stock Exchange to this committee in answer to a questionnaire that the committee caused to be submitted to it, there were distributed 466,000 copies, approximately, of the 11 pamphlets that you have referred to, were there not?

Mr. HARRIS. There were.

Mr. PECORA. And in the following year, 1930, there were distributed approximately 790,000 copies of the 13 publications, were there not?

Mr. HARRIS. That is correct.

Mr. PECORA. And in the year 1931 there were distributed 2,250,000 copies, approximately, of all the 12 publications that were circulated to the public by the New York Stock Exchange.

Mr. HARRIS. Yes, sir.

Mr. PECORA. And in the year 1932 there were only 260,000 copies, approximately, of the six pamphlets distributed for the year.

Mr. HARRIS. That is true.

Mr. PECORA. And for the year 1933, or, rather, the first 9 months of the year 1933, there were 55,000 copies, approximately, of the three publications distributed in that year.



Mr. HARRIS. That is true.

Mr. PECORA. Mr. Harris, what was the reason for the tremendous increase in the number of copies of pamphlets distributed by the New York Stock Exchange to the public in the year 1930 over the preceding year, 1929?

Mr. HARRIS. It happened that in the year 1930 there were two speeches made for which there was an enormous demand from the public, many requests coming in for additional copies of those pamphlets.

Mr. PECORA. The approximate number of copies of pamphlets distributed in the year 1929 was 466,000, while in 1930 it was 790,000.

Mr. HARRIS. Yes, sir.

Mr. PECORA. Is that accounted for entirely by this demand that you speak of?

Mr. HARRIS. I believe it is.

Mr. PECORA. Now, Mr. Harris, in the year 1931 there was a much greater increase in the circulation or distribution of copies of pamphlets over the number for the year 1930, because in 1931 there were 2,250,000 copies of the 12 different pamphlets distributed.

Mr. HARRIS. That is right.

Mr. PECORA. What was the reason for that tremendous increase over the preceding year?

Mr. HARRIS. In that year there were two addresses given by the president, Mr. Whitney, for which there was, again, an enormous public demand. In one case I know that 400,000 requests came into the exchange for additional copies.

Mr. PECORA. Yes. And in the year 1932 the number of copies of pamphlets distributed by the New York Stock Exchange dwindled from the number of  $2\frac{1}{4}$  million in 1931 to 260,000 in 1932. Was that due to the fact that the public had lost interest to a considerable degree in speeches of officers of the stock exchange and that that curtailed and lessened their demand for copies of them.

Mr. HARRIS. No; not entirely. There were only half as many pamphlets sent out in 1932 as were sent out in 1931.

Mr. PECORA. That is, there were 6 sent out in 1932 as compared to 12 in 1931?

Mr. HARRIS. Yes, sir.

Mr. PECORA. But there were, approximately, one eighth the aggregate number went out.

Mr. HARRIS. That is right. That also just happened; that is, as to the speeches made by the president of the exchange, there wasn't the popular demand for them as was the case in the 2 preceding years.

Mr. PECORA. What were the titles of the speeches that were distributed in 1932?

Mr. HARRIS. The one that had the largest circulation was the statement made by Richard Whitney, president of the New York Stock Exchange, before the Committee on Finance of the United States Senate in regard to the Revenue Act of 1932.

Mr. PECORA. What were the other five pamphlets sent out in 1932?

Mr. HARRIS. There was the statement of Richard Whitney, president, made to the governing committee and the membership, in regard to the investigation of stock exchange practices by the Committee on Banking and Currency of the United States Senate, which was August 24. The other one that had a rather large circulation was the address made by Richard Whitney, president, before the Industrial Club of St. Louis and the chamber of commerce of St. Louis, St. Louis, Mo., entitled "New York Stock Exchange."

Mr. PECORA. What I am trying to find out from you, Mr. Harris, if you can possibly help us to learn the fact, is why in the year 1932 there was such a considerable falling off of distribution of pamphlets to the public by the New York Stock Exchange.

Mr. HARRIS. Well, a part of that was—

Mr. PECORA (continuing). A falling off measured by a difference between 2,250,000 copies distributed in 1931 and only 260,000 copies distributed in 1932.

Mr. HARRIS. Well, a part of that was in deference to the committee that was investigating the stock exchange. The president did not make as many speeches as he had made theretofore.

Mr. PECORA. As a matter of fact, one of the six pamphlets I believe, the one that you stated had the greatest circulation in 1932, was his report based upon the investigation that had proceeded up to that time, wasn't it?

Mr. HARRIS. Yes. One was just a stenographic copy, and the other was a statement made to the governing committee and the membership in regard to the investigation.

Mr. PECORA. How does that support your reasoning that the lessening in the distribution of pamphlets was due to the desire of the committee on publication to accord deference to this Senate committee which was conducting the stock-market investigation?

Mr. HARRIS. Well, I think it was a sort of forbearance on the part of the officers of the exchange. There was the investigation going on here in Washington that we all knew about. As a consequence the president did not make as many speeches as he normally does.

Mr. PECORA. But he did make some speeches and some reports, that were printed and distributed to the public, did he not?

Mr. HARRIS. That is true.

Mr. PECORA. It was not to be expected that every speech he was going to make that year was going to deal with this investigation, was it?

Mr. HARRIS. No.

Mr. PECORA. As a matter of fact, he did make one speech or report which covered his observations on the investigation?

Mr. HARRIS. That is true.

Mr. PECORA. Up to the date of the delivery of that report by him?

Mr. HARRIS. That is true.

Mr. PECORA. So, where was that a deference to the committee, that you speak of?

Mr. HARRIS. I do not see how I could explain it any more clearly. It seems to me that was obvious.

Mr. PECORA. All right. Now, Mr. Harris, for the first 9 months of the year 1933 there were only 55,000 copies of pamphlets distrib-

uted by the New York Stock Exchange. What was the reason for that very considerable reduction from the number distributed in the preceding year?

Mr. HARRIS. In 1933, during the entire year, the president only made one address, and there was one statement issued by him to the board of estimate and apportionment of the city of New York.

Mr. PECORA. And that had to do with the attempt of the municipal authorities of the city of New York early last fall to impose some tax on the business of the members of the New York Stock Exchange.

Mr. HARRIS. That is true.

Mr. PECORA. Well, didn't the president of the New York Stock Exchange make speeches throughout the country during the year 1933?

Mr. HARRIS. No, sir. According to my figures here he only made one address, and there was very little public demand for it.

Mr. PECORA. What was the title of that address?

Mr. HARRIS. The title was "Securities Investors in the Future."

Mr. PECORA. There was very little demand for that?

Mr. HARRIS. Only 45,000 copies, which in comparison with other speeches was very small.

Mr. PECORA. Who was the author of those speeches?

Mr. HARRIS. Mr. Whitney, of the one I just referred to, if that is what you have in mind?

Mr. PECORA. Yes.

Mr. HARRIS. Mr. Whitney was the author of it.

Mr. PECORA. Who was the author of the speeches delivered by Mr. Simmons in 1928 and 1929, if you know?

Mr. HARRIS. I am not certain, but I imagine the author was Mr. Simmons.

The CHAIRMAN. Public interest in securities had diminished a good deal in 1933, hadn't it?

Mr. HARRIS. Well, there seemed to be less interest on the part of the public so far as judged by their asking for copies of the various speeches.

Mr. PECORA. Well, in order that the chairman's question may be more fully answered, let me ask: Isn't it fair to say that trading on the New York Stock Exchange in the year 1933 showed a measurable increase over that which was done during the year 1932?

Mr. HARRIS. It did. As to whether or not that would have anything to do with demand for those speeches, I don't know.

Mr. PECORA. No; except that it might reflect the interest of the public in the stock market.

Mr. HARRIS. It might do so, but I don't know it.

Mr. PECORA. How often does the board of governors of the New York Stock Exchange meet?

Mr. HARRIS. They have a regular meeting every 2 weeks.

Mr. PECORA. Every 2 weeks?

Mr. HARRIS. Yes, sir.

Mr. PECORA. And special meetings at other times?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Those special meetings are held at the call of the president?



Mr. HARRIS. Or they may be at the request of some standing committee, in order to bring up some important matter.

Mr. PECORA. Can you give us an approximate idea of the number of meetings the governing committee held during the calendar year 1933?

Mr. HARRIS. No, sir; I cannot.

The CHAIRMAN. How many members are there of the governing committee? Forty-one?

Mr. HARRIS. Yes; I think the number is 41 or 40.

Mr. PECORA. Plus two ex-officio members?

Mr. HARRIS. Yes, sir; 40, I believe.

Mr. PECORA. Are the members of the governing committee chosen every year, or is only a portion of them chosen every year?

Mr. HARRIS. Do you want the exact language? I can give it to you. There are one quarter of the membership chosen every year.

Mr. PECORA. Ten of the forty are chosen every year?

Mr. HARRIS. Yes, sir.

Mr. PECORA. And for what period of time are they elected annually?

Mr. HARRIS. They are elected to serve for 4 years.

Mr. PECORA. How are nominations for officers and members of those committees made?

Mr. HARRIS. There is a nominating committee appointed.

Mr. PECORA. Appointed by whom?

Mr. HARRIS. Just one minute. I have it here in the book and will find it for you.

The CHAIRMAN. I think you said all committees were appointed by the president of the exchange.

Mr. HARRIS. Yes, sir.

Mr. PECORA. No; not the governors.

Mr. HARRIS. The nominating committee is elected by the membership of the exchange, which committee consists of five members.

Mr. PECORA. That is, the nominating committee consists of five members?

Mr. HARRIS. Yes, sir; and they are elected by the membership.

Mr. PECORA. That is, the nominating committee is elected by the membership of the New York Stock Exchange.

Mr. HARRIS. Yes, sir.

Mr. PECORA. And are the members of the nominating committee named a year in advance of their functioning?

Mr. HARRIS. Well, not as to the exact time, but they are named some time in advance.

Mr. PECORA. And they are named about a year in advance?

Mr. HARRIS. I think that is correct.

Mr. PECORA. In other words, when is the annual election of officers of the New York Stock Exchange held?

Mr. HARRIS. On the second Monday of May.

Mr. PECORA. Of each year?

Mr. HARRIS. Of each year; yes, sir.

Mr. PECORA. And when is the "slate", so-called, of the nominating committee to be voted upon at the annual election, put out by the nominating committee?

Mr. HARRIS. On the second Monday in April of each year.

Mr. PECORA. And in that slate is there included the nominating committee for the ensuing year? In other words, will there be included in the slate put out for the annual election to be held next May, by the present nominating committee, the names of the members of the nominating committee who will make the slate for the annual election of 1935?

Mr. HARRIS. Yes; I believe that is true.

Mr. PECORA. Now, what are the duties and the powers of the so-called "governing committee"?

Mr. HARRIS. They are as follows:

The governing committee shall be vested with all powers necessary for the government of the exchange, the regulation of the business conduct of its members, and the promotion of its welfare, objects, and purposes.

In the exercise of its powers, it may adopt such rules, issue such orders and directions, and make such decisions as it may deem appropriate.

Mr. PECORA. What provision of the constitution of the exchange are you reading from?

Mr. HARRIS. I am reading from page 2, article III, section 2.

Mr. PECORA. Now, under section 3, the governing committee has the power to appoint and dissolve all standing and other committees except the nominating committee, hasn't it?

Mr. HARRIS. Yes, sir.

Mr. PECORA. It also has the power to define, alter, and regulate their jurisdiction, hasn't it?

Mr. HARRIS. Yes, sir.

Mr. PECORA. It has the power of discipline over the members of the exchange?

Mr. HARRIS. That is right.

Mr. PECORA. And the power of discipline extends to that of expulsion?

Mr. HARRIS. Yes, sir.

The CHAIRMAN. Would you say from that that the governing committee is the real authority in control of the New York Stock Exchange?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Now, Mr. Harris, is there another committee known as the "law committee"?

Mr. HARRIS. There is.

Mr. PECORA. And what are the powers and duties of the law committee of the New York Stock Exchange?

Mr. HARRIS. It provides:

A law committee, to consist of five members, which shall deal with matters of law affecting the interests of the Exchange.

It shall act in an advisory capacity to the president when requested by him and shall, in association with the president, represent the exchange in all matters affecting its general interests, and is authorized and empowered, in its discretion, to examine into the dealings of any member of the exchange.

Mr. PECORA. The members of the law committee are appointed by the president, are they not?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Now, has this law committee virtually superseded the governing committee with regard to the representation of the exchange in matters affecting its general interests?

Mr. HARRIS. I am sorry, Mr. Pecora, but I did not catch the first part of your question.

Mr. PECORA. The committee reporter will read it to you. [Which was done.]

Mr. HARRIS. No, sir; I would not say that.

Mr. PECORA. Well, then, let me refer you to the eighth paragraph of article 10 of the constitution, providing for the creation of a law committee, and defining its duties and powers, which paragraph says, in part, regarding the law committee:

It shall act in an advisory capacity to the president, when requested by him, and shall, in association with the president, represent the exchange in all matters affecting its general interests.

Doesn't that give the committee very, very broad powers, a very broad grant of power, to function for the exchange in all matters that might be deemed to affect the interests of the exchange?

Mr. HARRIS. Yes. But I believe that paragraph starts by saying it shall act in an advisory capacity.

Mr. PECORA. It starts out that way and then it says:

and shall, in association with the President, represent the exchange in all matters affecting its general interests.

Mr. HARRIS. Well, that is true.

Mr. PECORA. Now, under that grant of authority, hasn't the law committee virtually assumed the functions covered by the grant of power to the governing committee?

Mr. HARRIS. I do not think so, because in section 3 of the constitution, at page 3, it says:

The governing committee shall determine the manner and form by which its proceedings shall be conducted; it shall appoint and may dissolve all standing and other committees except the nominating committee, define, alter, and regulate their jurisdiction as stated in this instrument, and have original and supervisory jurisdiction over any and all subjects and matters referred to said committees, and may direct and control their actions or proceedings at any stage thereof.

Mr. PECORA. Aren't the members of the law committee referred to, as a matter of fact, as being virtually the governing power of the exchange in association with the president, and thus more so than the governing committee?

Mr. HARRIS. I would not say that. Some of the older men, men who have been on the governing board for a long time, are on the law committee. But the exchange is governed by the governing committee, as a whole.

Mr. PECORA. Has the matter of the action to be taken by the exchange with respect to the bill now pending in Congress to regulate securities exchanges throughout the country been taken before the governing committee of the exchange?

Mr. HARRIS. No, sir; it has not.

Mr. PECORA. You say it has not?

Mr. HARRIS. No, sir.

Mr. PECORA. Has it been taken before the law committee of the exchange?

Mr. HARRIS. I don't know. I am not a member of the law committee.



Mr. PECORA. You haven't heard one way or other as to whether it has?

Mr. HARRIS. I imagine it would be discussed there.

Mr. PECORA. The governing committee has not been called upon to consider the position or attitude of the New York Stock Exchange, that is, the position or attitude it should take with respect to the so-called Fletcher-Rayburn bill that is now awaiting action by Congress?

Mr. HARRIS. Yes, sir. There was a meeting of the governing committee called, in which the matter was brought up, and the president was to make an address and suggestions, and he asked for the approval of the governing committee.

Mr. PECORA. Mr. Committee Reporter, will you read back there and give me the answer that Mr. Harris first made in that respect?

Mr. HARRIS. There was one place there where I realize the question was incorrect—

Mr. PECORA (interposing). You mean that your answer to one of my questions was incorrect?

Mr. HARRIS. Yes, sir: the answer given by me was incorrect.

Mr. PECORA. Well, let me hear the committee reporter read what the incorrect answer was that you made.

(Thereupon the committee reporter read, as follows:)

Mr. PECORA. Has the matter of the action to be taken by the exchange with respect to the bill now pending in Congress to regulate securities exchanges throughout the country, been taken before the governing committee of the exchange?

Mr. HARRIS. No, sir; it has not.

Mr. PECORA. You say it has not?

Mr. HARRIS. No, sir.

Mr. HARRIS. I should like to correct that answer.

Mr. PECORA. What is your answer to that question now?

Mr. HARRIS. That it has, and I forgot this special meeting.

Mr. PECORA. You forgot the special meetings of the governing committee at which that subject was brought up?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Was not the business transacted at those special meetings of outstanding importance?

Mr. HARRIS. There are a good many meetings, Mr. Pecora. I did forget that particular meeting. I remember distinctly now.

Mr. PECORA. What took place at that meeting, at which that subject was considered?

Mr. HARRIS. The president asked for the approval of the governing committee of the stand he was going to take. Approval was granted.

Mr. PECORA. What did he say was the stand he was going to take?

Mr. HARRIS. Well, I cannot remember the details of it.

Mr. PECORA. What was the substance of it?

Mr. HARRIS. It was his suggestion—the suggestion, rather, that he made before the House committee here within 3 or 4 days—with regard to having an authority in charge of exchange matters, the authority to consist of two members appointed by the President, and so forth, as was described at that meeting.

Mr. PECORA. Is that all you can tell us about the substance of what took place at that meeting with respect to that subject?

Mr. HARRIS. The president outlined his plan——

Mr. PECORA. What was the plan that he outlined?

Mr. HARRIS. He outlined that in lieu of suggestions made, that a committee be appointed, 2 members to be appointed by the President of the United States, 1 member to be appointed by the Federal Reserve, 2 members of the Cabinet, 1 member to be appointed by the New York Stock Exchange, and 1 by the other exchanges throughout the country, they to be an authority to have control of the stock exchanges.

Mr. PECORA. You are stating now the substance of the suggestion that Mr. Whitney made to the governing committee with regard to the kind of legislation that should be asked of the Congress on this subject of regulation of securities exchanges.

Mr. HARRIS. True.

Mr. PECORA. What I am asking you to tell us is what attitude was suggested to the governing committee at that special meeting by Mr. Whitney should be the attitude taken by the stock exchange on the so-called "Fletcher-Rayburn bill."

Mr. HARRIS. This attitude we have just been over.

Mr. PECORA. Is that all that was discussed at that meeting?

Mr. HARRIS. Yes. He asked for the approval of that matter, and it was granted.

Mr. PECORA. Did he report to the governing committee, so far as you know, his own views with regard to the Fletcher-Rayburn bill?

Mr. HARRIS. He reported to the entire membership.

Mr. PECORA. I am talking about this meeting of the governing committee, this special meeting, at which the subject of the attitude to be taken by the stock exchange on this bill was discussed.

Mr. HARRIS. No; not at that time.

Mr. PECORA. Did he at any other time, at any other meeting of the governing committee, enter into any such discussion?

Mr. HARRIS. No; he did not take that up, and I imagine due to the fact that he had already sent a letter to all members.

Mr. PECORA. What was the letter he sent to all the members, to which you refer? Have you a copy of it?

Mr. HARRIS. Yes; I have.

Mr. PECORA. Will you produce it, please?

(Mr. Harris produced a paper and handed the same to Mr. Pecora.)

The CHAIRMAN. Did Mr. Whitney take the position, before the governing committee, that there was need for some regulation of the stock exchange by some authority, when he recommended this commission that you mentioned?

Mr. HARRIS. He did not say that he thought there was any need of it, but he thought that if regulatory powers were going to be granted to some authority, the suggestion that he made would be a wise one.

Mr. PECORA. I offer for the record the copy of the letter produced by the witness.

The CHAIRMAN. Let it be admitted.

(Copy of letter, Feb. 14, 1934, Whitney to stock exchange members, was received in evidence and marked "Committee's Exhibit No. 110", Feb. 26, 1934, and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. This letter is dated February 14, 1934, and is a printed form addressed to all members, signed by Richard Whitney, president.

Was this special meeting of the governing committee held prior to February 14, 1934?

Mr. HARRIS. I do not remember the date, Mr. Pecora.

Mr. PECORA. At that meeting was this letter produced, or any copy thereof, for the consideration of the governing committee?

Mr. HARRIS. It was not.

Mr. PECORA. Did the governing committee at any time pass specifically upon this letter and authorize its distribution?

Mr. HARRIS. No, sir.

Mr. PECORA. Has the governing committee at any time taken any formal action with regard to the attitude to be taken by the New York Stock Exchange with respect to this Fletcher-Rayburn bill?

Mr. HARRIS. That covers a long period of time.

Mr. PECORA. No; it would not cover a longer period of time than that embraced by the time which has elapsed since the bill was introduced, less than 3 weeks ago, as I recall it.

Mr. HARRIS. No, it has not. I thought you meant since the investigation started.

Mr. PECORA. I am confining myself now to the bill. Has the governing committee taken any formal action with regard to determining the attitude of the stock exchange with reference to the Fletcher-Rayburn bill?

Mr. HARRIS. None other than the one I have already told you about.

Mr. PECORA. What was the action it took then, at that special meeting you have referred to?

Mr. HARRIS. It granted its approval to the President.

Mr. PECORA. Approval of what?

Mr. HARRIS. Of his suggestion.

Mr. PECORA. What was the suggestion?

Mr. HARRIS. The suggestion about an authority, a supreme command. I gave the details of that before. Do you want me to go over it again?

Mr. PECORA. Do you mean the suggestion Mr. Whitney gave expression to at the hearings held recently, I believe last week, before the House committee on this bill?

Mr. HARRIS. That is the matter I refer to.

Mr. PECORA. Is that the only action taken by the governing committee with respect to the position of the stock exchange with reference to this Fletcher-Rayburn bill?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Do you know what has been done by or on behalf of the New York Stock Exchange in lining up opposition to the bill?

Mr. HARRIS. I know of no attempt on the part of the New York Stock Exchange to line up opposition to the bill.

Mr. PECORA. Do you know of a letter which was addressed by Mr. Whitney to the executive heads of several hundred corporations throughout the country whose securities are listed on the New York Stock Exchange?



Mr. HARRIS. I have seen the letter.

Mr. PECORA. Would you say that that letter was in pursuance of an attempt to line up opposition to the bill?

Mr. HARRIS. I would say that that letter was a statement of fact, as seen in the eyes of the exchange, by companies which have paid moneys to have their stocks listed.

Mr. PECORA. And designed to line up those companies in opposition to the bill?

Mr. HARRIS. I do not think that, Mr. Pecora.

Mr. PECORA. You would not say that?

Mr. HARRIS. I would say it was a statement—

Mr. PECORA. What was the statement sent out for, if it was not to arouse that opposition to the bill on the part of the executives of these corporations?

Mr. HARRIS. I think it was the duty of the New York Stock Exchange to point out to these various corporations that they might be greatly affected.

Mr. PECORA. The letter itself you have read, have you not?

Mr. HARRIS. Yes, sir.

Mr. PECORA. The letter points out certain alleged defects or shortcomings or weaknesses in the bill, does it not?

Mr. HARRIS. It does.

Mr. PECORA. Would you not say that the letter was intended to line up opposition to the bill among the corporations or their executive officers?

Mr. HARRIS. No; I would not put it that way. I think it is merely pointing out facts to those corporations—the duty of the exchange.

Mr. PECORA. It pointed out facts that would prompt them to oppose the enactment of the bill, did it not?

Mr. HARRIS. That is quite likely.

Mr. PECORA. Was that sent out with the approval of the governing committee?

Mr. HARRIS. No, sir.

The CHAIRMAN. What are the fees that these corporations have to pay for listing?

Mr. HARRIS. Mr. Chairman, I cannot tell you those offhand.

Mr. REDMOND. They vary, Mr. Chairman. Prior to about 1927 they used to be the equivalent of 1 cent per share, and I think now on new listings it is 1.2 cents per share on original listings, with lower fees in the case of a listing that grows out of a merger, consolidation, change of name, and other similar things, where it is not exactly a new issue being brought on the list. I can get you the exact charges and state them for the record, if you would like to have them.

The CHAIRMAN. I think we ought to have those. How do the fees run when there is an additional listing?

Mr. REDMOND. It depends upon the nature of the listing. If it grows out of a reorganization or consolidation, it may have a lower rate than an original listing.

Mr. PECORA. Mr. Harris, have you a copy of the letter which was addressed by Mr. Whitney to the executive heads of these corporations with respect to the Fletcher-Rayburn bill?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Will you produce it, please?

(Mr. Harris produced a paper and handed the same to Mr. Pecora.)

Mr. PECORA. I offer this in evidence.

The CHAIRMAN. Let it be admitted.

(Copy of letter, Feb. 14, 1934, Whitney to member corporations, was received in evidence, marked "Committee Exhibit No. 111," Feb. 26, 1934, and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. Do you know of any other letters that have been sent out by Mr. Whitney in behalf of the New York Stock Exchange, or as president of that institution, with respect to the Fletcher-Rayburn bill?

Mr. HARRIS. Yes; I know of one other document that went out, in memorandum form.

Mr. PECORA. Can you produce a copy of it?

Mr. HARRIS. I am not certain. I think I have one [producing a paper and handing it to Mr. Pecora].

Mr. PECORA. I offer this in evidence.

Mr. HARRIS. Mr. Pecora, that last document or memorandum was not sent out. I think that was only given out when requested, but it was not generally sent out. As you notice, it is not addressed to anyone, I believe.

Mr. PECORA. I will offer it in evidence anyway, with that explanation of what it is.

The CHAIRMAN. Let it be admitted. Does it bear any date?

Mr. PECORA. I do not think it does. I only took a hasty glance at it.

Mr. REDMOND. No, sir.

Mr. PECORA. And it is not signed either?

Mr. HARRIS. No; it is not signed.

(Copy of undated, unsigned, memorandum in re effect of National Securities Act, was received in evidence and marked "Committee Exhibit No. 112", Feb. 26, 1934, and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. So far as you know, was this last document which you have handed me, and which has been marked in evidence as "Committee's Exhibit 112", submitted to the governing committee for its consideration?

Mr. HARRIS. No, sir.

Mr. PECORA. Do you know who prepared this last document, which bears no name?

Mr. HARRIS. I believe the president.

Mr. REDMOND. I can correct that. Mr. Pecora. That document was prepared in my office in response to a request from the exchange for a document analyzing the Fletcher-Rayburn bill, as it affected unlisted corporations and nonmembers of the exchange.

Mr. PECORA. Mr. Harris, do you know who prepared the letter marked in evidence as "Committee's Exhibit No. 110" of this date, and which is the letter signed by Mr. Whitney as president, and addressed to all members of the New York Stock Exchange?

Mr. HARRIS. I believe that letter was sent out by Mr. Whitney. He prepared it.

Mr. PECORA. Was it prepared by him?

Mr. HARRIS. I believe so.

Mr. PECORA (addressing Mr. Redmond). That was not prepared in your office?

Mr. REDMOND. Very largely Mr. Whitney's; checked, of course, by my firm in regard to its legal aspects and the correctness of the analysis of the language of the bill.

Mr. PECORA. Do you know who prepared the letter addressed to the presidents of all listed corporations, which is marked "Committee's Exhibit No. 111"?

Mr. REDMOND. The same procedure was followed. With regard to the analysis of the bill, it was very largely prepared by me, or by my office, and the balance of it was entirely Mr. Whitney's.

Mr. PECORA. The greater part of the document deals with an analysis of the bill and its provisions.

Mr. REDMOND. Naturally.

Mr. PECORA. That was the part that your office prepared?

Mr. REDMOND. Because it deals with the specific provisions of the bill, Mr. Pecora, yes.

Mr. PECORA. That is also true of exhibit no. 112, which is the memorandum which is not signed nor addressed to any particular person?

Mr. REDMOND. That was entirely prepared in my office.

Mr. PECORA. Do you know of any other communications that have been addressed by or on behalf of the Stock Exchange, or any of its officers or members, with regard to the Fletcher-Rayburn bill?

Mr. HARRIS. I know of no others.

Mr. PECORA. Do you know whether or not the members of the Exchange have, in turn, circularized their clients or customers in connection with the Fletcher-Rayburn bill?

Mr. HARRIS. I do not know.

Mr. PECORA. You have not heard of any such thing?

Mr. HARRIS. I can not say as to that, Mr. Pecora. I do not know whether member firms have done it or not.

Mr. PECORA. Did your firm undertake any such activity? Can you tell us about that?

Mr. HARRIS. We stated that we had these 3 letters we have been discussing, or 2 letters, rather, 1 addressed to members and 1 addressed to the presidents of all listed corporations.

Mr. PECORA. You stated that to whom?

Mr. HARRIS. We stated that to our various branch officers and correspondents, and asked them if they would like copies of this literature. They practically all said they did, and we sent out a large number of copies.

Mr. PECORA. About how many did your firm send out?

Mr. HARRIS. I did not handle that. I do not know.

Mr. PECORA. But a large number?

Mr. HARRIS. Quite a few.

The CHAIRMAN. How many branch offices have you, of the New York Stock Exchange?

Mr. HARRIS. I think it is 23. I am not certain as to that.

Mr. PECORA. Are they located in as many different communities?

Mr. HARRIS. Yes. They are widely spread over the country.

Mr. PECORA. Do you know whether other members or member firms of the stock exchange did likewise?



Mr. HARRIS. I do not know, Mr. Pecora.

Mr. PECORA. Could you produce a copy of the communication that your firm caused to be sent out?

Mr. HARRIS. I do not think we sent out any communication as a firm. I think we merely used the wire to state that we had these letters, to individuals and various officers, and asked them if they would like copies.

The CHAIRMAN. You spoke about correspondents. How many correspondents have you?

Mr. HARRIS. I think we have about 10 correspondents.

The CHAIRMAN. In addition to the branch offices?

Mr. HARRIS. Yes, sir.

Mr. PECORA. What was the substance of the wire that you sent out?

Mr. HARRIS. I did not send the wire out, Mr. Pecora, but as I remember it, we just stated in the wire that we had these two letters.

Mr. PECORA. Three.

Mr. HARRIS. Two. The exchange did not send out the others—1 to members and 1 to presidents of all listed corporations—and that we would supply them with them if they would care to have them.

Mr. PECORA. Have you got the minute books of the committee on publicity, Mr. Redmond?

Mr. REDMOND. I have [producing books and handing the same to Mr. Pecora].

Mr. PECORA. I notice from the minute book which has just been handed to me, Mr. Harris, that the last meeting of the committee on publicity was held on February 21, 1934.

Mr. HARRIS. Yes, sir.

Mr. PECORA. The meeting just prior to that was held on November 13, 1933.

Mr. HARRIS. Yes, sir.

Mr. PECORA. And the meeting prior to that was held on October 31, 1933.

Mr. HARRIS. That is correct.

Mr. PECORA. In glancing over the minutes of the meeting of October 31, 1933, I find the following statement (reading):

The committee discussed the possible extension of publicity work through the medium of speeches, pamphlets, radio talks, and magazine and newspaper articles.

Can you tell us more in detail about that discussion?

Mr. HARRIS. There is not much more to say about it, Mr. Pecora. Those matters came up and were discussed, and the committee decided not to do anything about them.

Mr. PECORA. In the minutes of the meeting of the committee on publicity held on August 21 last, I notice the following item [reading]:

The committee did not approve of a proposal of the New York Evening Post that the exchange sponsor an advertisement or a series of advertisements with reference to the National Recovery Administration.

Do you recall that action?

Mr. HARRIS. Yes, sir; I recall that action. The exchange never goes into that type of advertising and publicity, and we so notified the Evening Post.

Mr. PECORA. What kind of advertising or publicity does the exchange go in for, as distinguished from newspaper advertising?

Mr. HARRIS. They do no advertising whatsoever. Their publicity is mostly the publishing of these documents and various letters and speeches of the president, and sending them out.

Mr. PECORA. I notice in the minutes of the meeting of the committee on publicity held on May 19, 1933, the following item [reading]:

The suggestion of Mr. Westerfield that our present mailing list of college professors be expanded to include all of the economics faculty of the principal universities was approved.

Do you recall that action?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Who is Mr. Westerfield, who made that suggestion?

Mr. HARRIS. Mr. Westerfield is an assistant secretary of the stock exchange. He is not an officer.

The CHAIRMAN. Does not the stock exchange issue a bulletin?

Mr. HARRIS. Yes, sir. The stock exchange issues a bulletin weekly, which gives all data pertaining to sales of memberships, dividends, and other statistical matter; and another bulletin monthly that is gotten out by the Department of the Economist, that shows the averages of all stocks, the number of sales of bonds and stocks, the number of shares traded in, and a chart showing the dividend yields, and statistical data of that sort.

The CHAIRMAN. Is that handled by your committee?

Mr. HARRIS. That is handled by the Department of Economist. The committee on publicity pay for it, though. The expenses are charged to the committee on publicity for those statistical data.

Mr. PECORA. I notice in the minutes of the meeting of the committee on publicity held on March 24, 1933, the following item [reading]:

Mr. Westerfield reported on conversations he has had with a Mr. Amos, of The American Federationist, published by the American Federation of Labor, with reference to the exchange running a series of paid articles in that paper. The president also reported on correspondence with a Mr. Widden, of the Journal of Commerce, with reference to a suggestion that the stock exchange advertise. The committee did not approve.

Do you recall that?

Mr. HARRIS. Yes; I recall that. Mr. Pecora, I was present at that meeting, was I not?

Mr. PECORA. Yes; according to the recital in the minutes. Did the committee, at this meeting of March 24 last, disapprove of the suggestion that the exchange run a series of paid articles in the American Federationist?

Mr. HARRIS. They did.

Mr. PECORA. And also disapproved of the suggestion made in behalf of the Journal of Commerce?

Mr. HARRIS. Yes, sir.

Mr. PECORA. I notice in the minutes of the meeting held on February 27 last the following entry [reading]:

The secretary submitted the following memorandum from the president giving an opinion of the law committee with reference to giving publicity material to public schools:

"I have your memorandum of January 27 regarding the giving of publicity material to public schools. This matter I have referred to the law committee today, and they agree to the present practice of the committee on publicity, it being understood that the material furnished should be the general publicity material of the exchange, from which the desired information can be compiled by the inquirers for use in textbooks, et cetera. It was specifically agreed that no employee of the exchange should actually write the text of the books to be used."

Mr. WESTERFIELD asked the advice of the committee as to whether the above authorization included permission to give copyrighted photographs of the exchange to reputable writers and publishers for use in school textbooks. The committee approved, subject to the general policy, which is to give such publicity material only on specific solicited requests.

Do you recall that?

Mr. HARRIS. Yes, sir.

Mr. PECORA. What is meant by the expression in the concluding sentence of that item, which I will read again to you (reading):

The committee approved, subject to the general policy, which is to give such publicity material only on specific solicited requests.

Mr. HARRIS. In other words, the exchange would send out none of its publicity material unless it were requested. Unsolicited, they would not send anything. Does not that paragraph, at the start, take up the sending of it to schools?

Mr. PECORA. Yes.

Mr. HARRIS. They would send it, then, to no school that did not request it.

Mr. PECORA. I am a little uncertain about the meaning of the phrase "specific solicited requests." Does that mean requests of the stock exchange were to be solicited by the stock exchange?

Mr. HARRIS. No, sir.

Mr. PECORA. Then why the reference to "solicited requests"?

Mr. HARRIS. If the institution, if the school, should solicit from the stock exchange or should ask for these data—

Mr. PECORA. That would be a request, would it not?

Mr. HARRIS. Yes; but that is the meaning of that phrase.

Mr. PECORA. Why the use of the adjective "solicited"?

Mr. HARRIS. That is the intent of that meaning there.

Mr. PECORA. A request in that form would not be a solicited request.

Mr. HARRIS. The secretary may be in error in his English in writing it up, but the purpose of the committee was never to send out any of those data to any school unless the school first requested them of the stock exchange.

Mr. PECORA. What would be a solicited request, as distinguished from an unsolicited request?

Mr. HARRIS. Well, I should think an example would be if a school here in Washington should write to the New York Stock Exchange requesting them to send them a certain specific pamphlet, or any documents that they had sent out that year to educational institutions.

Mr. PECORA. That would be a solicited request?

Mr. HARRIS. Yes, sir.

Mr. PECORA. What would be an unsolicited request?

Mr. HARRIS. In case the stock exchange—and it is their policy never to do so—should send to a school, unsolicited, of their own free will, on their own initiative, documents dealing with the workings of the exchange.



Mr. PECORA. That would not be a request at all, would it?

Mr. HARRIS. No; it is not a request. I say it would be done on their own initiative.

Mr. PECORA. On the initiative of the exchange.

Mr. HARRIS. Of the New York Stock Exchange.

Mr. PECORA. In the minutes of the meeting of the committee on publicity held on January 26, 1933, I find the expression "unsolicited requests" used as follows [reading]:

A request of the board of public education of the school district of Philadelphia for a loan for an extended period of the stock exchange films was approved. The president was requested to secure from the law committee an opinion for the future guidance of his committee, with respect to policy in connection with supplying public schools with publicity material, such as copyrighted photographs of the exchange for school textbooks, pamphlet material in quantities, and the loan of our motion-picture films. The feeling of the committee on publicity was that there can be no objection to the sending of publicity material to schools on specific unsolicited requests.

What did that mean? What did you understand by the use of the term "unsolicited requests" in this entry in the minutes?

Mr. HARRIS. I know the policy of the committee on that matter, Mr. Pecora, and that is just as I explained before, never to send any data unless they have been requested by the school first.

Mr. PECORA. You have references in these minutes both to unsolicited requests for publicity material and solicited requests. There is some difference between the two. As I understand your definition of a solicited request, it is a request that was not solicited by the stock exchange.

Mr. HARRIS. Yes.

Mr. PECORA. Then what is an unsolicited request?

Mr. REDMOND. May we see the minute book there?

Mr. PECORA. Yes [handing book to Mr. Redmond].

Mr. REDMOND. Mr. Pecora, I think it is clear that it is "unsolicited requests" in both cases. The typewriting is not very clear in this second meeting, but it was clearly written "unsolicited", and it was intended, as the witness has said, to express the policy of the committee that the requests should be unsolicited in both instances. Is it not perfectly clear that it was typewritten "unsolicited" in both cases?

Mr. PECORA. It is also perfectly clear that the prefix "un" in one instance is marked out, is it not?

Mr. REDMOND. No; I think it is blurred, but I would not say it was marked out.

Mr. PECORA. Well, I think it is a little bit more than blurred.

Mr. HARRIS. I am sure that this is a typographical error, Mr. Pecora.

Mr. PECORA. Well, why any reference at all to "unsolicited requests" if there were no solicited requests? Why that characterization of requests?

Mr. HARRIS. Mr. Pecora, I cannot say any more on that than it expressed the policy of the committee since I have been on it, and that is that they never send data of the description that we are discussing unsolicited to schools, unless the schools ask for it first.

Mr. PECORA (after examining document further). Mr. Redmond, don't you think there is an ink stroke drawn through the prefix

"un" at page 112 of the minute book of the committee on publicity?

Mr. REDMOND. It is blurred, and there may be an ink stroke, but clearly, if there was intended to be a correction of the minutes, we would have found that prefix rubbed out or we would have found it clearly stricken out. It is possible that there is an accidental pen stroke there that has blurred the prefix, but it was clearly typed "unsolicited" in both bases, and that is the policy of the committee.

Mr. PECORA. How can a request be solicited? What is the reason for defining some requests as "solicited" and others as "unsolicited"?

Mr. HARRIS. I do not think there is, Mr. Pecora. I think there is just one class; that is, subject to the question whether or not that "unsolicited" is crossed out or not. I think it is a typographical error, but I really cannot say more than—

Mr. PECORA (interposing). Why is there any necessity for mentioning unsolicited requests at all if the exchange does not solicit the making of any requests?

Mr. HARRIS. I cannot speak for the English in the book. All I can do is repeat the policy of the committee.

Mr. PECORA. Now, Mr. Harris, you have been a member of the exchange for 7 years, I think you said?

Mr. HARRIS. Yes, sir; I believe it is 7 years.

Mr. PECORA. And a member of the board of governors, or the governing committee for 4 years?

Mr. HARRIS. I have been a member of the governing committee since May 15, 1928.

Mr. PECORA. That is nearly 5 years.

Mr. HARRIS. Nearly 5 years, yes.

Mr. PECORA. Has a treasurer's report for the exchange as an institution ever been seen by you?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Is it ever circulated among the members?

Mr. HARRIS. I am not on the finance committee. I am not certain as to that. I see it regularly.

Mr. PECORA. You would know as a member whether or not an annual balance sheet, we will say, of the exchange is given to the members?

Mr. HARRIS. I see it myself regularly and—no; I don't think it is.

Mr. PECORA. Do you know the reason for that?

Mr. HARRIS. No, sir.

Mr. PECORA. And it is not published in any year book, is it?

Mr. HARRIS. I believe it is not.

Mr. PECORA. It is not published in any report issued in behalf of the exchange or made to the exchange by any of its officers?

Mr. HARRIS. No, sir.

Mr. PECORA. I want to call your attention to the provisions of section 1 of article 6 of the constitution of the stock exchange, reading as follows:

It shall be the duty of the treasurer to receive, and, acting under instructions from the finance committee, to take charge of and disburse moneys of the exchange. He shall report fully to the finance committee in regard thereto at its stated meetings. He shall present to the governing committee at its first regular meeting in January of each year a report of the finances of the

exchange for the 12 months ending December 31, preceding. He shall also present to the governing committee at its first regular meeting in January, April, July, and October, a report of finances of the exchange for the 3 months preceding.

Has it ever been the practice or rule of procedure or custom for the stock exchange to make public to its membership—not to the general public, but to its membership—a report of its finances; that is, of its income and operating expenses, and so forth, and disbursements?

Mr. HARRIS. I believe not.

Mr. PECORA. Do you know any reason why that information is not given to the members of the exchange?

Mr. HARRIS. No, sir; but I think any member of the exchange could go to the president of the exchange and discuss it with him.

Mr. PECORA. Do you know any reason at all why it is not given to members of the exchange as a matter of routine?

Mr. HARRIS. I do not.

Mr. PECORA. As a member of the governing committee of the exchange, I assume that at the meeting that was held last month the treasurer, under the provisions of section 1 of article 6, reported or presented to it a report of the finances of the exchange for the 12 months ending December 31 last?

Mr. HARRIS. He did.

Mr. PECORA. Do you recall what that report showed?

Mr. HARRIS. I am sorry, Mr. Pecora. I haven't a good memory. I do not remember the figures.

Mr. PECORA. Can't you tell us what the figures were even approximately?

Mr. HARRIS. I am sorry. I would not want to guess at them.

Mr. PECORA. You heard the report only within the past month, didn't you?

Mr. HARRIS. I did.

Mr. PECORA. And didn't it make enough of an impression on you to cause you to recall now even approximately what the figures were?

Mr. HARRIS. No, sir; the figures appeared satisfactory, and I dismissed them from my mind.

Mr. PECORA. Just what consideration did you give them that made you to conclude they were satisfactory and cause you to dismiss them from your mind from that time on?

Mr. HARRIS. I mean by the term "satisfactory" it did not appear to me that the exchange was going to go bankrupt. As a consequence, they were satisfactory.

Mr. PECORA. Do you recall what was the amount of income reported by the treasurer?

Mr. HARRIS. No, sir; I do not.

Mr. PECORA. In the year 1933?

Mr. HARRIS. I cannot recall the figure.

Mr. PECORA. Can't you even approximate?

Mr. HARRIS. I do not want to guess, Mr. Pecora, and I cannot do it.

Mr. PECORA. Was it several millions of dollars?

Mr. HARRIS. I cannot guess.



Mr. PECORA. You don't even know whether it was a million or more?

Mr. HARRIS. I will be very glad to get those figures for you, Mr. Pecora, but I cannot guess at them now, because, as I said before, my memory is not accurate, and I would not want to make statements that would be all out of line.

Mr. PECORA. I am not expecting you from memory to tell us the figures accurately. I would like to get the closest degree of approximation to the figure that your memory will enable you to give us.

Mr. HARRIS. I am sorry. I cannot give you any.

Mr. PECORA. Cannot give us any at all on that?

Mr. HARRIS. No, sir. I look at a great many statements in my business, of various concerns.

Mr. PECORA. I am just talking now about the stock exchange.

Mr. HARRIS. Exactly.

Mr. PECORA. Of which you are one of the governors.

Mr. HARRIS. And that is one of the reasons why I cannot remember these figures, because I see so many statements.

Mr. PECORA. Do you recall what the expenses reported by the treasurer were?

Mr. HARRIS. No, sir.

Mr. PECORA. Not even approximately?

Mr. HARRIS. No, sir.

Mr. PECORA. You do not know whether it was in the millions of dollars or less than a million?

Mr. HARRIS. The stock exchange is a large institution. It was a sizable amount of money, but I cannot guess.

Mr. PECORA. Do you recall what it was for the year 1932?

Mr. HARRIS. No, sir.

The CHAIRMAN. Has there been any recent sale of a seat on the stock exchange?

Mr. HARRIS. Do I remember the last sale?

The CHAIRMAN. Yes.

Mr. HARRIS. I think I do, but I may be in error. I think I know the price of the last seat, but I am not certain of it.

The CHAIRMAN. State what your best recollection is.

Mr. HARRIS. My best recollection is \$190,000.

Mr. PECORA. As one of the governors of the stock exchange, Mr. Harris, can you give the reason underlying this policy of not giving annual report of income and disbursements to the members of the stock exchange themselves?

Mr. HARRIS. No, sir; I cannot. I am not a member of the finance committee and I do not know the policy.

Mr. PECORA. Can you think of any good reason why that information should not be given to the members of the exchange as a matter of routine?

Mr. HARRIS. Well, I have never thought a great deal about the matter, but I repeat that I think if any member of the stock exchange will go to the president he would be very glad to discuss the matter with him and give him figures.

Mr. PECORA. You have no experience of any kind that prompts that statement, have you?

Mr. HARRIS. No, sir.

Mr. PECORA. So it is merely an assumption by you not based upon any actual fact within your knowledge where a member not a member of the finance committee or the governing committee went to the president or the treasurer and got a statement of the income and disbursements of the exchange for any year?

Mr. HARRIS. No; excepting that I know that the general policy of the president has always been to be perfectly open with all members.

Mr. PECORA. Why isn't that policy effectuated so far as giving the member's statement of income and disbursements in an annual report or in the yearbook?

Mr. HARRIS. I do not know, Mr. Pecora. Maybe the members have no interest in it.

Mr. PECORA. Is that the best reason you can give, that maybe the members have no interest in knowing how much their institution receives and how much it spends and how it spends it?

Mr. HARRIS. Yes; I cannot give you any reasons for it.

Mr. PECORA. Do you recall the principal items of disbursements that the treasurer presented in the report which you heard read last month?

Mr. HARRIS. No, sir, Mr. Pecora; I do not remember that report.

Mr. PECORA. Was the report of slight consequence to you, that you do not remember a single detail about it?

Mr. HARRIS. No; it was not of slight—it was of importance, but I see no reason why I should burden my mind with details like that over a time.

Mr. PECORA. Do you remember any detail of that report at all?

Mr. HARRIS. None at all.

Mr. PECORA. Was it a written report?

Mr. HARRIS. Yes, sir.

Mr. PECORA. Did it state the sources of income as well as the respective amounts received from those sources?

Mr. HARRIS. Yes, sir; it was a full financial report.

Mr. PECORA. What were the sources of income that were in the report?

Mr. HARRIS. Well, the usual sources of income.

Mr. PECORA. What are they—not the usual?

Mr. HARRIS. There are a great many of them, of course. Various items from the committee on arrangements, such as telephone space on the floor of the exchange, leased wires, telephone clerk badges on the floor, various receipts from the medical department, transfers of memberships, tax thereon, the income from the listing of securities. I cannot remember all the details, Mr. Pecora.

Mr. PECORA. Do you recall what the principal items of disbursements were?

Mr. HARRIS. I do not.

Mr. PECORA. Do you recall whether the report showed a deficit or a surplus for the year 1933?

Mr. HARRIS. It showed a deficit.

Mr. PECORA. Of how much?

Mr. HARRIS. I do not remember.

Mr. PECORA. Was it a substantial deficit?

Mr. HARRIS. Mr. Pecora, I cannot remember those figures; I would like to, and I will be glad to get them and send them to you.

Mr. PECORA. When could you get them?

Mr. REDMOND. I can arrange to send to New York and get it, Mr. Pecora, if the committee feels that it is necessary to put it into the record. Those are figures that have never been publicly disclosed.

Mr. PECORA. Why have they never been publicly disclosed? Mr. Harris cannot give us any reason, so far as he knows.

Mr. REDMOND. The constitution, Mr. Pecora, the very provision that you read, provides that that financial statement shall be rendered to the governing committee and to the finance committee.

Mr. PECORA. I read that.

Mr. REDMOND. But it does not provide that it shall be sent to the members.

Mr. PECORA. I know that. I am trying to find out the reason for that.

Mr. REDMOND. Because it is the provision of the constitution, which is the contract adopted by the members themselves. They themselves by adopting the constitution have agreed that they will not receive financial statements.

Mr. PECORA. Have agreed that they will not receive financial statements?

Mr. REDMOND. That is it.

Mr. PECORA. That is your interpretation of the reason, is it, why that provision is in the constitution?

Mr. REDMOND. It is a contract, Mr. Pecora, and the members having agreed to that provision, are not in a position to demand a financial statement. That is their own agreement.

Mr. PECORA. But what is the policy that underlies this provision in the constitution, if you can tell us that?

Mr. REDMOND. I think it has been in the constitution—well, probably 50 or 60 years.

Mr. PECORA. But what is the policy underlying it?

Mr. REDMOND. I do not know what policy actuated the original members of the exchange to adopt that provision in the constitution, Mr. Pecora, because I was not alive, probably.

Mr. PECORA. Do you know of any good reason now, Mr. Redmond, why that information is not given as a matter of right to the membership of the stock exchange annually?

Mr. REDMOND. As Mr. Harris said, he felt that it would be given to any member who inquired.

Mr. PECORA. That does not answer the question. Mr. Harris also said that he never knew of a member that went to the president and got the information.

Mr. REDMOND. You asked him whether he had ever had the experience, Mr. Pecora.

Mr. PECORA. Whether he ever had any experience.

Mr. REDMOND. That does not mean whether he ever knew of any other member doing that.

Mr. PECORA. Do you know, Mr. Harris, whether any member ever went to the president and asked for this information and got it?

Mr. HARRIS. I think I know of a case; yes.

Mr. PECORA. What was that case and when did it arise?



Mr. HARRIS. This man spoke to me about it. I am not positive if he went or not.

Mr. PECORA. Oh, then do not tell us if you are not positive if he went or not. Let us have no guess about it.

Are you going to get that for us tomorrow?

Mr. REDMOND. I will send to New York and get and it will probably be down by tomorrow morning, Mr. Pecora.

The CHAIRMAN. Seats on the exchange have sold how much higher than the present price?

Mr. HARRIS. The highest they ever sold, I believe, was \$625,000.

The CHAIRMAN. How long ago was that?

Mr. HARRIS. 1928, I think.

Mr. PECORA. Mr. Harris, I show you a document, very voluminous in form, entitled:

Answers submitted by the New York Stock Exchange to the questions asked of it by counsel for the United States Senate Committee on Banking and Currency (such questions being in the form agreed to in conferences with members of the staff of the counsel to the committee, and the representatives of the Exchange in conferences held in New York City on Oct. 10 and 11).

Will you look at it and tell me if you are able to identify it as the original answers submitted by the New York Stock Exchange to the questions referred to?

(Mr. Redmond and Mr. Harris compared two documents.)

Mr. HARRIS. Yes, sir.

Mr. PECORA. I offer it in evidence, but, Mr. Chairman, in view of its voluminous character, ask that it be not spread on the stenographic minutes but be ordered printed in the printed copies of the hearings.

The CHAIRMAN. Let it be admitted.

(Document entitled "Answers Submitted by the New York Stock Exchange to the Questions Asked of It by Counsel for the United States Senate Committee on Banking and Currency" was thereupon designated "Committee Exhibit No. 113, February 26, 1934", and the same appears in full in the printed record at the end of today's proceedings.)

Mr. PECORA. Mr. Chairman, I have before me a communication which was received by me as counsel for the committee from the president of the San Francisco Mining Exchange in response to a request that was addressed to them in behalf of the committee. I want to offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Nov. 27, 1933, from Charles E. Hudson, president San Francisco Mining Exchange, to Ferdinand Pecora, together with accompanying data, was thereupon designated "Committee Exhibit No. 114, February 26, 1934." The letter appears in the record in full immediately following where read by Mr. Pecora. The accompanying data appears in the printed record at the end of today's proceedings.)

Mr. PECORA. The document has been received in evidence as Committee Exhibit No. 114, and I would like to read the covering letter. It is on the letterhead of the San Francisco Mining Exchange, 327 Bush Street, San Francisco. [Reading:]

NOVEMBER 29, 1933.

MR. FERDINAND PECORA.

*Counsel, Committee on Banking and Currency,**285 Madison Avenue, New York City.*

DEAR SIR: Complying with your request we are enclosing herewith today's quotation sheet which gives the bids and offers and sales of stock listed in this exchange, together with the names and addresses of the members of the exchange.

In this connection, I wish to remark that our exchange may be termed a white chip trading rendezvous for stock. Mining and oil stocks are necessarily of a speculative character, and we do not attempt to make the public think they are anything else. A hole in the ground today may be a mine of value tomorrow, and the mine of immense development may run out of its ore and be a tremendous hole in the ground the next day. Our stocks, for that reason, as I said before, are speculative and do not have the immense quantity of water that many of the industrial stocks contain. The fact is, we have to supply water from the desert area while the industrials are usually organized by promoters and supplied with water with great hydraulic pumps from the Atlantic Ocean.

If we can be of further service, we are at your command.

Yours very truly,

(Signed) CHARLES E. HUDSON, *President.*

P.S.—The bankers generally don't help us, because our activities interfere with their game.

[Laughter.]

Is there any statement you want to make, Mr. Harris, to the committee, or any information you want to give to it, without the necessity of being specifically questioned thereon?

MR. HARRIS. There is just one thing I would like to take up, Mr. Pecora.

MR. PECORA. All right.

MR. HARRIS. Friday, when I was here, I saw afterward in the press a report to the effect that the committee on publicity had spent a million dollars in the past 5 years. That is not quite accurate. The committee on publicity spent \$794,174.19, of which \$228,150.44 was salaries and wages, leaving a total of \$566,043.75, which is a little in excess of \$100,000 a year for 5 years spent by the committee on publicity. That includes all documents of every sort that they sent out, all their printed matter.

MR. PECORA. Does not the figure of a million dollars approximately for the last 5 years include the disbursements and expenses of the economist's office, the economist of the stock exchange?

MR. HARRIS. Yes, sir.

MR. PECORA. And were given to us on the tabulation that was put in evidence here on Friday relating to those expenditures?

MR. HARRIS. Yes, but I—

MR. PECORA (interposing). Given to us by the stock exchange?

MR. REDMOND. In answer to the questionnaire that required that the two be combined.

MR. PECORA. We gave the figures, as I recall it, last Friday on the record as shown in that recapitulation both for the committee on publicity and the economist's office.

MR. REDMOND. I think also the statement was made on the record, Mr. Pecora, that the exchange had expended more than a million dollars on publicity. That, of course, overlooks the fact that the economist's department is a purely statistical department engaged in collection of statistics and is not in any sense publicity work of

any kind whatsoever. And that is the point which Mr. Harris apparently wished to bring out.

Mr. PECORA. Do not the members of the economist's staff furnish material to the publicity committee?

Mr. REDMOND. As they do to all other departments of the exchange, when called upon.

Mr. PECORA. And its office?

Mr. REDMOND. Exactly.

Mr. PECORA. And are used in the preparation of speeches, I presume, that are delivered by officers of the exchange from time to time?

Mr. REDMOND. Occasionally, but it is primarily work in the collection of statistics which appear in the monthly bulletin of the exchange, which consists of absolutely nothing but a mass of graphs and figures and charts. It is purely statistical.

Mr. PECORA. Is there any other statement or evidence or information you want to give the committee, Mr. Harris, without being specifically questioned for the purpose?

Mr. HARRIS. No, sir. No, Mr. Pecora; I do not think there is anything else.

Mr. PECORA. What is that?

Mr. HARRIS. No; there is nothing else.

Mr. PECORA. How about you, Mr. Redmond? Is there anything you would like to say to the committee on the subjects covered in the examination of Mr. Harris?

Mr. REDMOND. No, Mr. Pecora; I think that I am appearing here as counsel, not precisely as a witness.

Mr. PECORA. But you have given some answers to questions.

Mr. REDMOND. Purely to facilitate the investigation.

Mr. PECORA. I know it. That is why I am extending now in behalf of the committee the invitation to you to make any statement, give any information in regard to the general subject of the examination of Mr. Harris, that you might see fit to make.

Mr. REDMOND. I do not think there is anything I want to say at this time, Mr. Pecora.

Mr. PECORA. All right.

The CHAIRMAN. Then Mr. Harris will be excused.

Mr. PECORA. May I ask Mr. Harris just one question more: Mr. Harris, I have before me a printed document. Will you look at it and tell me if you recognize it to be a statement made by Mr. Whitney before the House committee in the hearings on the Fletcher-Rayburn bill held before that committee last week, and which sets forth in outline, at least, the proposal of Mr. Whitney for regulation of securities exchanges that was referred to by you in the course of your testimony?

Mr. HARRIS. Yes, sir; that is the document.

Mr. PECORA. I ask that it be marked in evidence.

The CHAIRMAN. Let it be admitted.

Mr. REDMOND. I would like to call your attention to the fact that that is just a proof. We would like to submit a final copy, as there may be some minor corrections made in that one.

Mr. PECORA. Very well then; we will just mark this for identification and supplement it with the final form to be submitted by Mr. Redmond.



(Document purporting to be statement of Mr. Richard Whitney before the House Committee on Interstate and Foreign Commerce was thereupon designated "Committee Exhibit No. 115 for identification, February 26, 1934", and the same appears in the printed record at the end of today's proceedings.)

(Document purporting to be final proof of statement or proposal of Mr. Richard Whitney before the House Committee on Interstate and Foreign Commerce was later furnished by Mr. Redmond, designated "Committee Exhibit No. 116, February 26, 1934", and the same appears in the printed record at the end of today's proceedings.)

The CHAIRMAN. These hearings before the subcommittee will be resumed on call. At 2:30 today the full committee meets, and we will take up the bill S. 2693.

(Accordingly, at 1:03 p.m., the subcommittee adjourned, to meet again at the call of the chairman.)







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